

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

Floor Debate
April 03, 2018

[LB181 LB299 LB327 LB344 LB461 LB516 LB596 LB640 LB670 LB673 LB682 LB686
LB703 LB704 LB708 LB714 LB717 LB729 LB731 LB731A LB741 LB745 LB747 LB749
LB760 LB766 LB774 LB786 LB803 LB807 LB826 LB827 LB829 LB859 LB865 LB873
LB889 LB894 LB901 LB902 LB903 LB904 LB906 LB909 LB923 LB924 LB940A LB940
LB944 LB945 LB946 LB947 LB950 LB982 LB983 LB990 LB990A LB998 LB1000 LB1003
LB1005 LB1008 LB1009 LB1015 LB1030 LB1034A LB1034 LB1035 LB1036 LB1038
LB1040 LB1052 LB1057 LB1070 LB1084 LB1089 LB1091 LB1098 LB1103 LB1110 LB1119
LB1120 LB1132 LR366 LR367 LR380]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifty-third day of the One Hundred Fifth Legislature, Second Session. Our chaplain for today is Pastor Johnny Walker from the West First Chapel, McCook, Nebraska; Senator Hughes's district. Please rise.

PASTOR WALKER: (Prayer offered.)

PRESIDENT FOLEY: Thank you, Pastor Walker. I call to order the fifty-third day of the One Hundred Fifth Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

PRESIDENT FOLEY: Thank you, Mr. Clerk. Do you have any corrections for the Journal?

CLERK: I have no corrections.

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

CLERK: Mr. President, your Committee on Enrollment and Review reports the following bills to Select File: LB731, LB731A, LA1070, LB889, LB766, LB717, LB859, LB1000, LB1003, LB983, LB982, LB1036, LB1038, LB682, LB749, LB786, LB1030, LB1052 and LB1110. Some of those have Enrollment and Review amendments. That's all that I have, Mr. President. (Legislative Journal pages 1349-1358.) [LB731 LB731A LB1070 LB889 LB766 LB717 LB859 LB1000 LB1003 LB983 LB982 LB1036 LB1038 LB682 LB749 LB786 LB1030 LB1052 LB1110]

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

Floor Debate
April 03, 2018

PRESIDENT FOLEY: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following three legislative resolutions: LR366, LR367 and LR380. (Visitors introduced.) Senator Quick, for what purpose do you rise? [LR366 LR367 LR380]

SENATOR QUICK: Personal point of privilege.

PRESIDENT FOLEY: Please proceed.

SENATOR QUICK: Thank you, Mr. President. Today is National Service Recognition Day and I wanted to honor our AmeriCorps members and Senior Corps volunteers by recognizing them and showing appreciation for all the good work they do. AmeriCorps engages dedicated individuals in addressing pressing locally identified community needs through nonprofit and public organizations. It provides an opportunity to make a big difference in the lives of many people living in our state and across the country. ServeNebraska provides leadership for AmeriCorps in our state. Mayors and city leaders, county officials, and tribal leaders across the country are using national service more and more to solve their community's toughest challenges. CNCS, America's leader in volunteering and service efforts, engages over 325,000 AmeriCorps members and Service Corps volunteers in national service at more than 50,000 locations each year. Through partnership with schools, faith-based groups, nonprofits, and local agencies, national service members are imbedded within the communities they serve using their intuition and training to make tangible lasting impact. Whether responding to national disasters, helping those who live in poverty, tackling opioid epidemic, educating students for the twenty-first century workforce, or supporting veterans and their military families, AmeriCorps members and Senior Corps volunteers help local leaders make their community stronger. And I had introduced a resolution, I think it came out last week, but to...a resolution that would honor the AmeriCorps members. And with that, thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Quick. Members, if you could please move to your desks, we can start Final Reading. We need to have you all at your desks, please. Members, if you could please be at your desk, we can begin Final Reading. Members, we'll now begin Final Reading on the budget bill and state claims bill. The first bill LB946E. Mr. Clerk. [LB946]

CLERK: (Read LB946 on Final Reading.) [LB946]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is shall LB946E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB946]

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

Floor Debate
April 03, 2018

CLERK: (Record vote read, Legislative Journal page 1359.) 40 ayes, 5 nays, 4 excused and not voting, Mr. President. [LB946]

PRESIDENT FOLEY: LB946E passes with the emergency clause attached. Next bill is LB945E. Mr. Clerk, the first vote is to dispense with the at-large reading. Those in favor of dispensing with the reading vote aye; those opposed vote nay. Have you all voted? Record, please. [LB945]

CLERK: 41 ayes, 3 nays, Mr. President, to dispense with the at-large reading. [LB945]

PRESIDENT FOLEY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB945]

CLERK: (Read title of LB945.) [LB945]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is shall LB945E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Record, please. [LB945]

CLERK: (Record vote read, Legislative Journal page 1360.) 41 ayes, 4 nays, 4 excused and not voting, Mr. President. [LB945]

PRESIDENT FOLEY: LB945E passes with the emergency clause attached. The next bill is LB944E. Mr. Clerk, the first vote...Mr. Clerk. [LB945 LB944]

CLERK: Mr. President, pursuant to the Speaker's authority under the major proposal rule, I had motions on the bill. The first to be considered is a motion by Senator Morfeld. Senator Morfeld would move to recommit LB944 to the Appropriations Committee. [LB944]

PRESIDENT FOLEY: Senator Morfeld, you're recognized to open on your motion. [LB944]

SENATOR MORFELD: Thank you, Mr. President. Colleagues, in talking with the Speaker, I have requested ten minutes to provide a legal analysis that I was unable to provide given the time restraints on the floor. Pursuant to my agreement with the Speaker, I will pull the motion to recommit to committee right after I'm finished. Friends, I frequently speak from the heart when making my comments in committee and hearings on the floor. However, I cannot do that today because of the time limited and I need to use that time to precisely rebut the suspect legal reasoning that has clouded this debate from day one brought forward by Nebraska Right to Life,

Floor Debate
April 03, 2018

the Catholic Conference and their legislative allies who are not legal experts on Title X. Of course, these groups and their allies have every right to advance their political agenda as they see fit, but it is wrong to suggest that federal law dictates this change in any way. As the saying goes, we are all entitled to our opinions, but we are not entitled to our own facts. Thus, today I'm reading my analysis verbatim for expediency and clarity to build this record as best as I can in a last-ditch plea to you as my colleagues to reconsider these drastic actions before we jump off this cliff. Please listen carefully before casting your vote in support of the flawed provision in our state budget that defunds Planned Parenthood of the Heartland from the Title X program and that risks Title X funding for all other providers because of the conflicts with existing federal law regarding referral requirements. Point number one, proponents have argued that the U.S. Supreme Court opinion of Rust v. Sullivan requires states to prohibit Title X money from going to entities that provide abortion services. Fact, Rust v. Sullivan requires no such thing. In 1988, under the Reagan Administration, the federal Department of Health and Human Services issued regulations barring Title X programs from discussing, referring, or advising a patient on abortion under the program. In 1991, the Supreme Court of the United States in Rust v. Sullivan upheld the DHHS regulations against facial constitutional challenge, specifically holding the possibility of a subsequent as applied challenge reasoning that the regulations were permissible because of Title X grantee can continue to perform abortions, provide abortion-related services, and engage in abortion advocacy as long as it conducts those activities through programs that are separate and independent of the project that receives the Title X funds. In other words, Congress fully intended and knew that organizations would both provide abortion services and engage in Title X work. Rust did not allow the exclusion of organizations that performed abortions from any Title X funding. It simply upheld. Based on the record before it, regulations that purported to ensure Title X funds not be used for purposes of discussing, referring, or advising a patient on abortion. Moreover, the U.S. Supreme Court has already held that Congress intended to allow Title X grantees to continue to provide abortion-related services, so long as federal separation requirements were met. In other words, Congress fully intended and knew that organizations would do both, and that it was fine, so as long as Title X funds in the program were separated pursuant to federal law. Anything that goes further is unlawful. Since Rust, federal regulations have changed to require both abortion referrals upon request and nondirective option counseling, including counseling on abortion. The state must follow these federal regulations. These are federal regulations that are in place today. Number two, proponents argue that the Weldon Amendment requires states to prohibit Title X money from going to organizations that provide abortion services. Fact, the Weldon Amendment requires no such thing. The Weldon Amendment which was adopted in 2005 has never been applied, never been applied to any state with respect to the Title X program or any other context. It protects individuals and entities from discrimination by the state. If they refuse to provide abortion referrals in certain circumstances, but it in no way permits any state to prohibit any individual or entity from providing such referrals, particularly when they're already under a federal legal obligation to do so. Think about it, colleagues. The Weldon Amendment has been on the books since 2005. It never caused us or

Floor Debate
April 03, 2018

any other Title X grantees to lose a penny of our family planning grant funds. Indeed, the Weldon Amendment has coexisted with federal law requiring Title X recipients to provide abortion referrals for over a decade. And the agency charged with interpreting enforcing these laws has never interpreted them to conflict in any way. In fact, if you go back and check the very same budget debate from last session under LB327, it's rather curious that there is little, if any, discussion about the Weldon Amendment. Number three, proponents argue that federal law requires specific type of separation between entities that receive Title X funding and provide abortion services. Fact, federal law requires no such thing. Title X money cannot be used for abortion services or abortion, but under the federal law, Title X grantees can conduct abortion activities, but they must ensure that Title X supported services are separate and distinguishable. Separation does not require separate grantees or a separate health facility, and certainly not the type of separation that LB944 requires of, quote, legal, physical, and financial separation. Under federal law, shared facilities are permitted so long as it is possible to distinguish between the Title X and non-Title X services. Under federal law, common waiting rooms are permitted, common staff is permitted, shared facilities are permitted, and maintenance of a single file system for abortion and planning patients are permitted so long as the costs are properly allocated. The provisions of LB944 that seek to alter separation requirements for Title X grantees are inconsistent with federal law. Number four, proponents argue that this language change is needed to bring us into compliance with federal law because of the recent wrangling between the Trump Administration and Congress to undo an executive order issued by President Obama late in his administration. Fact, federal law has not changed the Title X program. Existing federal law governing Title X program has been in place for years and was unchanged by any recent actions. Very late in the 2016 Obama Administration, they issued an Executive Order clarifying that nothing in federal law permitted or encouraged discrimination in the Title X program like the very provision imbedded in our budget. Very early in the Trump Administration, the Senate undid this Executive Order. But that doesn't change the underlying law. None of the federal law governing Title X was changed by this wrangling between the presidential administrations or requires a change in the program in Nebraska today, period. Number five, proponents argued that this language is a workable compromise that clinics can work with and will do no harm to any patients. Fact, this is not true. Planned Parenthood of the Heartland will lose funding immediately, risking the continuum of care for 8,000 low-income Nebraskans that choose Planned Parenthood of the Heartland as their trusted healthcare provider. Assuming the state is even permitted to continue as a Title X grantee after blatantly violating federal law requiring referrals, the other providers who continue in the program, including FQHCs and stand-alone family planning clinics will only be able to continue to receive funding if they agree to a gag rule that compromises medical ethics. Under federal law, Title X grantees must offer any clients, quote, neutral factual information and nondirective counseling, end of quote, on any of the full scope of pregnancy options, including prenatal care and delivery, infant care, foster care, or adoption, and pregnancy termination. 42 CFR 59.5 Title X providers must also offer referral upon request for services related to any of these options. Only the client gets to decide which

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

Floor Debate
April 03, 2018

pregnancy option she wants to learn more about and which ones that do match or do not match her needs. If a termination is medically indicated, the healthcare provider does not have to wait for patient request for counseling or referral, but may provide both information and referral proactively. This restrictive language ignores the practical and ethical duties that our medical professionals must discharge. [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR MORFELD: Sometimes patients who use Title X ask about abortion. Under the standard in LB944, it appears that a practitioner would be barred from referring the patient to a place where she could receive an abortion and ask further questions unless it's, quote, an emergency situation. The gag rule conflicts with medical ethics. Patients are entitled to be given complete medical information so that they may make meaningful decisions regarding their healthcare. The American Medical Association provides that clinicians should present relevant information accurately and sensitively in keeping with the patient's preferences about all medical options, not just the ones that the state Legislature dictates. This limitation on women's healthcare is inconsistent with that duty. As noted in the previous exchange with existing federal law, recognizes and clearly supports such. This state law conflicts with that and leaves hard-working Nebraska healthcare providers in a rock and a hard place. On the one hand, do I comply with federal law with my medical ethics and risk the loss of critical federal funding or on the other, do I comply with state law that violates federal law in my medical ethics? [LB944]

PRESIDENT FOLEY: Time, Senator. [LB944]

SENATOR MORFELD: Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Morfeld, did I understand you to say you're withdrawing? [LB944]

SENATOR MORFELD: I will withdraw that motion. Thank you. [LB944]

PRESIDENT FOLEY: Motion withdrawn. (Visitor introduced.) Mr. Clerk. [LB944]

CLERK: Mr. President, the next motion to be considered is by Senator Chambers. He would move to bracket the bill until April 18. [LB944]

PRESIDENT FOLEY: Senator Chambers, you're recognized to open on your bracket motion. [LB944]

Floor Debate
April 03, 2018

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, this has been a very bad session, not just for these women who are going to be damaged by what the Legislature did, bowing to the will of a misogynistic Governor, but our Legislature, as an institution, has been demeaned by having Lieutenant Governor Foley sit there. I handed out an article that describes the tongue lashing that I gave him, which I'm not going to read because it's on your desk, I may read it later. But this is a comment at the end of it: There has not always been bad blood between me and Lieutenant Governor Foley. See the article on the next page. If he had any sense of self-respect and decency, he'd stand up like a man and tell Ricketts that he refuses to allow the Governor to make a fool of him and a political pinata. But the Governor has told him--sonny, you work for me; you'll do what I say you should do. Although I've handed out this "Ernie-Gram," I'm going to read this rhyme. It's called "Governor's Rhapsody." Members of the Legislature total 49, I shall always have my way, enough of them are mine. Figuratively--excrement I scoop with figurative shovel; figuratively, I dump on them, and actually they grovel. Make scant difference if some rant, less difference those who rage; at the end of the day, I share a laugh with Taylor Gage. They're no more than pitiful grapes and I, the master vintner, with their juice I make weak wine to share with Lauren Kintner. Sycophants, these weak ones are; I always have their ear. I command and they obey, controlled by mortal fear. Legislative power vests--if all the truth be told--in the Governor's Office and the reins, my hands do hold. Let them loudly squeak and posture, one collective mouse, I'm the cat who rules the roost inside of this statehouse. "Senator Ernie Chambers Responds"--Colleagues, lend to me your ears. A word or two I'll say: Not every senator shall Ricketts...not with every senator shall Ricketts have his way. Persons who choose public life continually face hard choices. Being tugged this way and that amidst competing voices. Each and all do swear an oath or give an affirmation; neither of which allows for any mental reservation. Once embarked on public life, hold fast to oath and law. With a crooked ruler, one cannot a straight line draw. One cannot two horses ride, one walking and one trotting. Likewise, one banana cannot be both fresh and rotting. Jesus put it differently. One can't serve masters two; for to both one will be false, to neither can be true. Mental, psychological piece, a person never will find, while an inner war does rage that halves or splits the mind. That "halves" is spelled h-a-l-v-e-s, for the benefit of the transcribers. Therefore, senators must keep and violate their dominions: To the people being true, not split by two opinions. When the show is over, will moral courage have flowered? Which the better: principled death...and that's in quotes...or living political coward? Shall the Governor prevail, exacerbating your plight? Or to oath shall you be true and do the thing that's right? Paraphrasing Patrick Henry, with a dash of Macbeth--If we stand not for our oath, then give us political death. I don't intend to argue on this proposal this morning because the dye is cast. How much time do I have, Mr. President? [LB944]

PRESIDENT FOLEY: 5 minutes, 40. [LB944]

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

Floor Debate
April 03, 2018

SENATOR CHAMBERS: Thank you. The weak ones have folded. This that was done was not a compromise. It was a 100 percent capitulation. Senator Murante, either he's a fool or a liar, because he said to the television station in Omaha that Title X language was not aimed at Planned Parenthood. That's what he said, television people have it. Either he's a liar and knows better, or he's a fool and does not understand what the Governor has been boasting about and boasted about in the newspaper. Mr. President, I don't usually do this, but I care a great deal for women, and only a woman could lead me to do this. I'm going to yield the remainder of my time to Senator Wishart. [LB944]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Wishart, 4 minutes, 45. [LB944]

SENATOR WISHART: Thank you, Senator Chambers. I am one of the senators who has been most heavily involved in the debate over Title X language. Other than perhaps one or two of my colleagues, no other senator has been as involved in the attempt to remove this language from our budget, through our body, at all stages, than me. I have never faced such a trying issue as an elected official. Last week I was hardly able to speak when we introduced the amendment to our budget that would allow for clinics to refer patients in emergency situations, and thus would allow most of the current Title X clinics to be able to continue providing essential services to low income men and women. I could barely speak because it was not enough. While that amendment saved lives in health clinics, it did not address the blatant carveout of Planned Parenthood that remains in our budget, and for that I am disappointed in myself. I have come under very heavy criticism from people outside these walls, as well as people inside these walls, and most heavily from inside my head, about my work fighting this Title X language. I will take full responsibility for not being able to negotiate with and educate enough colleagues in order for us to remove this cancerous language from our budget. But I will defend myself against anyone who criticizes me for not trying or for not caring about women's healthcare. I have spent more time on this issue fighting to get this language out of our budget and protect our health clinics than any other issue and any of my bills combined. I am a member of the Appropriations Committee to which the budget bill was originally referred. I attended the committee hearing on February 5, 2018, that was dedicated solely to the Title X issue. I prepared extensively for the Title X hearing and actively questioned numerous testifiers. I reviewed all written materials provided by the live testifiers and read all statements of letters submitted in writing from those who did not testify. My fellow Appropriations Committee members and I discussed the Title X language at length in several Executive Sessions. From the testimony in my research, it was clear to me that this language in our budget would put all Title X clinics in jeopardy, especially targeting Planned Parenthood. Several of my committee members and I brought motions to remove or alter the language so that all Title X providers could continue to provide services. Unfortunately, we just did not have enough votes in committee. As you all know, the Title X language was debated at length on the floor on March 21 and 23. I listened to my colleagues during debate and considered all their arguments. It was clear to me and others that we were at an impasse in this

Floor Debate
April 03, 2018

debate and we discussed on the floor meeting between General File and Select File to find a solution that would make sure we had financial accountability and to ensure all Title X clinics could continue to provide services. On Select File, several amendments were introduced by Senators Pansing Brooks, myself, and Bolz to address any concerns with financial accountability within Title X, while removing language that would jeopardize clinics' ability to participate, including Planned Parenthood. When we could not find a solution that 25 members would support to move this bill from Select File, the Speaker directed that a number of senators meet to craft a compromise. I was one of those senators chosen. Along with several of my colleagues, we met and discussed alternative language regarding Title X restrictions, the Title X program, the entities that receive Title X money, and the services they provide; the federal, state, and case law regarding Title X women's healthcare; medical ethics, and abortion. We met for five days and spent countless hours discussing this issue and crafting alternative language. [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR WISHART: In addition to the dozens of hours I've spent discussing, debating, and researching with my colleagues, I have had regular and numerous conversations with others involved in this debate, including lobbyist, recipient clinics, healthcare professionals, constituents, and even the Governor and his representatives. From all of the work I've done on this issue, one thing is clear, this proposed restrictive Title X disbursement directly restricts Title X money going to Planned Parenthood. There's no doubt in my mind in that. While the bill does not name Planned Parenthood, there is only one abortion provider in Nebraska that receives Title X money and that is Planned Parenthood. No one has ever named or described any other entity to me other than Planned Parenthood when discussing the objective, independence measure of this language, which we were not able to remove on Select File with negotiations. It is clear that Planned Parenthood is the target of this legislation and was acknowledged multiple times during all of the debate within the Appropriations Committee,... [LB944]

PRESIDENT FOLEY: Time, time, Senator. [LB944]

SENATOR WISHART: ...on the floor, and in Speaker-arranged negotiations. Thank you. [LB944]

PRESIDENT FOLEY: Senator Wishart, you are actually next in the queue if you want to continue. [LB944]

SENATOR WISHART: I do. This budget process has been one of the most painful lessons I have had in my short time as a senator on the growing political nature of our Legislature. I have spent hours and will continue to spend hours going over where I made mistakes, where I could have

Floor Debate
April 03, 2018

pushed harder, convinced more, where the pressure points were that I missed since this became a political discussion, not a policy discussion. I will take the time needed to make sure I have learned from this experience and I will come back next year sharper, more prepared for tough negotiations, and with as many pieces of legislation possible to protect women's healthcare. Thank you. [LB944]

PRESIDENT FOLEY: Thank you, Senator Wishart. Senator Pansing Brooks. [LB944]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. Again, I rise against this budget amendment; and, again, while there are so many important things that I am in favor of, we haven't had a chance to discuss them. We've mentioned this over and over again and we will have spent over...I think nearly 12 hours discussing this. And I passed out again for your perusal, the editorials from both the Lincoln Journal Star and from the Omaha World-Herald talking about, quote, from the Journal Star, this here the Title X issue could have been handled through the normal process in a standing committee such as Health and Human Services. But again, the measure was introduced instead as a budget provision, which allowed enormous leverage to be exerted on the senators to pass it. As a result, the filibuster to stop Title X provision has deadlocked the budget process. You all may think that's fine and that this is something that we should encourage to happen every year and on any issue. I don't. The Omaha World-Herald said, this approach inappropriately married an issue to the broader and vital state budget...the vital state budget. And again, I went through numerous times the things that we didn't discuss. But I wanted to add one more thing to the record. I agree with what Senator Morfeld has said previously and I want to add that the proponents also argued that this change is necessary to protect Title X money coming to Nebraska because of a 2015 audit done to Planned Parenthood which showed some Title X money was used for abortion services. This audit did demonstrate technical coding errors, not a misuse of funds. And I want to say again, my brother-in-law, who was Chief of Pulmonary Medicine at Emory University now is paid to travel the country, not to explain the intricacies of pulmonary medicine, but to explain the intricacies of coding to hospitals, to providers, to doctors, because it has become so complicated, coding has become so complicated, that people pay to fly him not for his specialty, but for his newly acquired expertise in coding. The fact was acknowledged by Nebraska's State Auditor Charlie Janssen before the Legislature's Appropriations Committee on February 8, 2018, pages 4 to 5. Charlie Janssen said, quote, Question two, both reports caution that there may be increased risk or misuse of federal funds and noncompliance with federal regulations which could result in federal sanctions. Were there any sanctions imposed? The answer was--we are not aware of any federal sanctions that have been imposed. Charlie Janssen went on to say, quote: to be clear, they were using the wrong funds and the wrong codes, so sometimes miscoding gets passed over. It's still using the wrong money in the wrong section, but I believe they put...I believe they put implementation...implemented some programs and some guidance that I think will correct it, unquote. Additionally, state audits have found numerous examples of waste, fraud, and abuse of

Floor Debate
April 03, 2018

government funds among a host of state agencies and programs that some serious, some technical, and none that I know of have uncovered coding errors have resulted in complete disbarment from future program participation. Again, demonstrating how Planned Parenthood, Heartland is impermissibly singled out in this legislation and treated differently than every other entity receiving state funds. The audit is just a red herring and it's, quote, unquote, findings are completely overblown and do not justify this bill. On this point, the justification of audit... [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR PANSING BROOKS: ...was never really raised last year when the Governor inserted similar language in the budget. This new line of attack was conveniently developed over the interim. In conclusion, I believe that those who are working against us will declare victory, even though it's a victory against women's healthcare from this unworkable and likely illegal restriction on Title X money. The cost for this victory is the healthcare of 8,000 to 10,000 Nebraskans, most of them young women, most all low income, and at the risk of costly, lengthy litigation which our taxpayers are now on the hook for. Regardless of the outcome of this budget debacle which has shamed our proud institution and undermined our proud traditions, I stand for Planned Parenthood. I stand for women. I stand for the men who use these healthcare entities; and for a strong healthcare safety net for low income men and women in Nebraska that need access to life-saving preventative care under Title X and who presently received such... [LB944]

PRESIDENT FOLEY: Time, Senator. [LB944]

SENATOR PANSING BROOKS: ...from trusted providers like Planned Parenthood, Heartland... [LB944]

PRESIDENT FOLEY: Time, Senator. [LB944]

SENATOR PANSING BROOKS: ...and others in their community. Thank you, Mr. Lieutenant Governor. [LB944]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Chambers. [LB944]

SENATOR CHAMBERS: Thank you, Mr. President. I had said I wouldn't speak on this because I didn't know there would be another opportunity. But I have a great deal that I want to say. Senator Wishart and others were taken advantage of. I tried to point out that they were not negotiating. You don't negotiate with yourself. The Governor was not in that room and he didn't

Floor Debate
April 03, 2018

have to be there because he owns so many chumps, so many saps, so many sell-outs on this floor. Look at them. Then they're gonna talk about how they care about women and that's why they want to Choose Life license plate and they care about children. This budget harms women and children. Your Jesus, whom you crucify every day, said that you draw near unto him with your mouth, but your works are far from him. Why do you pray every morning? Because you're a bunch of fools and hypocrites. Jesus called you fools and you are deceivers, you are liars, and you are those who hate women, the poor, and the orphans. If you read that New Testament where Paul, one of the most sanctimonious, self-righteous, boastful, hypocritical people called an apostle, and he's the one who called himself an apostle, by the way, wrote reams about showing mercy, kindness, care for the poor, the widows, the orphans, being kind, being merciful, being just, and look what happens in this rotten place. You are the sycophants of the Governor. Then you want to talk about worshiping the flag, American values; hypocrisy, even in the pledge-- liberty and justice for all. For some white people, not even all white people. And you lie every time you say it. That's what's so contemptible and disgusting about this place, in my opinion. But do you know why I come down here every day, and my car is usually in the parking lot before others? And it's often here after many have left. Garbage men have to work all the time because there is so much garbage. Garbage men are the invisible people. I'm the garbage man. I have to clean up behind you all, the trash that you litter this institution with. The lack of respect for where you live, disregarding the oath that you took to discharge your duties to the best of your ability, and if what you have done is the best of your ability, you shouldn't even be here because you have none. But you're all capable of doing better than what you've done here. If you were as stupid as what your deeds show, you couldn't drive from where you live to the Capitol building safely, even if you live in Lincoln. You ought to be ashamed of yourselves. Little children come up here, look at us. And I have to bite my tongue because I don't want children to hear certain things on this floor. But what you all don't know, there is a lot of buzz among little children in the fourth grade because the only one on this floor whom they see in their books, one book, me. [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR CHAMBERS: Me. Why not you all? Because you're unworthy. You don't distinguish yourselves. You don't stand up when the pressure is on and when it makes a difference. And confession, they say, is good for the soul. But it's better for soul, body, and mind if you don't do the thing in the first place that you have to confess about. It's one thing to make a mistake. It's another thing to be rolled over in one of those suckers that Barnum said is born every minute. And he said if you find a sucker, bump his head, or her head, and that's what happened to this Legislature. I'll not vote for this bill. It's not a budget bill to me. It's a condemnation of this Legislature. Contrary to what the World-Herald said, nothing in that budget is as important to me as that Title X language that's in it... [LB944]

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

Floor Debate
April 03, 2018

PRESIDENT FOLEY: Time, Senator. [LB944]

SENATOR CHAMBERS: ...because it goes...thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Hilgers. [LB944]

SENATOR HILGERS: Thank you, Mr. President; good morning, colleagues. I rise just briefly, as we are creating a legislative record, and I want to make a couple of points, and I respectfully disagree with a few points made by Senator Morfeld and I appreciate his legal analysis. Many of those points I would just refer back to the transcript from our previous debate. We spent a number of hours on this particular issue. I only wanted to really highlight one point in particular because it's come up a little bit this morning, as well as last week. And I think it's important to ensure that the record is clear as to what the impact of this...the actual impact of this compromise language would be. And I think...and that is that this language, which by the way, is materially identical or similar, at least, to the Reagan Era regulation that was upheld in the Rust decision, which we discussed a little bit, Senator Morfeld referenced here on the floor this morning. And that is that this isn't meant to target any one individual provider and that abortion providers can still receive Title X funds. What the Legislature is doing here, and I believe consistent with federal law, is providing a mechanism by which those providers have to ensure that Title X taxpayer dollars are not going to fund abortion services. The way we've done that, I believe, is consistent with a regulation that has been upheld by the U.S. Supreme Court, as well as a Missouri regulation that was upheld by the Eighth Circuit in the Dempsey decision. And I just want to quote from both of those decisions here this morning briefly. In the first, in the Rust decision, what the Supreme Court said there was, and I'm quoting, here the government is not denying a benefit to anyone, but is instead simply insisting that public funds be spent for the purposes for which they're authorized. The secretary's regulation, which again, are materially similar to the ones at issue here, do not force the Title X grantee to give up abortion-related speech, they merely require the grantee keep such activities separate and distinct from Title X activities. The way we've done it in this case is ensure it has a physical, legal, and financial separation. There is a similar regulation or law that was upheld in the Planned Parenthood of Mid-Missouri and Eastern Kansas versus Dempsey decision. And for the record, that's 167 F.3d 458 from 1999 from the Eighth Circuit. As we all know, that's the circuit in which Nebraska is based. In that court, and I'll quote again, in Rust, which is the Supreme Court decision I referenced, the Supreme Court spoke more directly about the line between constitutional and unconstitutional funding conditions. Legislation that simply dictates the proper scope of government-funded programs is constitutional, while legislation that restricts protected grantee activities outside government programs is unconstitutional. And the Eighth Circuit went on in that particular case to say that the Missouri budget proposal maintained an affiliation with abortion provider...a family planning Title X grantee or family planning grantees could maintain that affiliation so long as the affiliated abortion service provider does not directly or indirectly

Floor Debate
April 03, 2018

receive state family planning funds. And given that allowance that the court referenced, the circuit determined that that particular budget was constitutional because it allows the grantees to exercise their constitutionally protected rights through independent affiliates. I want to emphasize the independent affiliates because that is essentially what we are doing here. So this language doesn't target any one individual or entity in particular. All we're doing is simply appropriating Title X funds for their intended purposes and not for abortion. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Chambers, you're recognized. This is your third opportunity. [LB944]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'd like to ask Senator Hilgers a question or two. [LB944]

PRESIDENT FOLEY: Senator Hilgers, would you yield, please? [LB944]

SENATOR HILGERS: Of course. [LB944]

SENATOR CHAMBERS: Senator Hilgers, have you read comments the Governor has made since this budget moved to Final Reading? [LB944]

SENATOR HILGERS: I have not seen...maybe that day, but since then, I was with my family. So I haven't seen any comments since Thursday. [LB944]

SENATOR CHAMBERS: Are you aware that he has said this shuts down Planned Parenthood from receiving any of this money and that that's what he wanted to do? Have you read anything like that that he said? [LB944]

SENATOR HILGERS: Not since Thursday, Senator Chambers. [LB944]

SENATOR CHAMBERS: Were you aware of it before Thursday that that was his intent? [LB944]

SENATOR HILGERS: I believe there's some...I believe...I recall seeing some public press about that when the initial budget language was proposed. [LB944]

Floor Debate
April 03, 2018

SENATOR CHAMBERS: Do you think his intent was to shut down Planned Parenthood as far as Title X money is concerned? [LB944]

SENATOR HILGERS: I can only go by the Governor's public comments, Senator Chambers, which we've just discussed. I don't want to speculate as to what his ultimate intent would be. [LB944]

SENATOR CHAMBERS: Well, based on what you understand from what you heard or read that he said, was it his opinion that that Title X language in the budget bill would stop Planned Parenthood from getting any Title X money? [LB944]

SENATOR HILGERS: I think that language was intended to stop any abortion provider from getting Title X money if they didn't want to have a separate affiliate and they wanted to continue to providing abortion services. To the extent that might include Planned Parenthood going forward, then I would say that's consistent with that. [LB944]

SENATOR CHAMBERS: You're being disingenuous. Did you read where he mentioned Planned Parenthood, not this stuff about any one, because Planned Parenthood is the only one. He said Planned Parenthood, but you have not seen him mention it? [LB944]

SENATOR HILGERS: I believe I saw a public reference to Planned Parenthood before Thursday, (inaudible). [LB944]

SENATOR CHAMBERS: Thank you. Members of the Legislature, you see an intelligent man like Senator Hilgers has to duck and dodge and jump and shuffle because he knows the Governor intended to stop Planned Parenthood from getting Title X money and he has said that's what he did. Senator Murante knows it, too. But being a "Repelican" as both of you are, you're masters of the slip, the slide, the duck, the dodge, the flap jack, which means you flip. All of you know what this has been about. That's why I find it so disgusting and contemptible. We all know exactly what is at stake here. And you all pretend that it's something else. I know what it is. And maybe you all really don't, but I doubt that. And Planned Parenthood will be harmed, but not really. There are hundreds of women who will be denied services that Planned Parenthood offers which have nothing to do with abortion. You all are the ones on crotch watch. Come out from between women's legs. Stop sniffing. Be men. Stand up as men. But that one guy in that office has turned all of you into liars and cowards and dissemblers. You have to pretend this is not about Planned Parenthood. You all know that's what it's about. And then Lieutenant Governor Foley sitting up there when he shouldn't be here. Even Senator Hilgers knows that, but he wouldn't acknowledge it. Senator Foley has put his thumb on the scale for the Governor on more than one occasions. He is a pinata. And since he's going to be a low-down sniveling coward who

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

Floor Debate
April 03, 2018

because the money he gets from the Governor he will strip away his manhood, I'm going to treat him like the Governor has shown us what he is. [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR CHAMBERS: He's a male, but he's not a man. Look at him, sitting up there because the Governor told him to be here. And look at the rest of you, allowing him in the Legislature. I don't mean you can pick him up and throw him out as you should, but you ought to have something to say. And not one of you will speak. Do you respect the Legislature and the power that you have? Because you do believe that the legislative power is vested in the Governor's Office. I did include on my handout the direct quote from the constitution that says the power is invested in a legislature which shall have one chamber. Oh, maybe they dropped the "s;" which shall have one "Chambers," who will stand up all the time, alone, unapologetically, persistent, insistent, trying to make you all be stirred up into stars of womanhood and manhood. Men like milquetoast. [LB944]

PRESIDENT FOLEY: Time, Senator. [LB944]

SENATOR CHAMBERS: Women like Stepford Wives. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Kolowski, you're recognized. [LB944]

SENATOR KOLOWSKI: Thank you, Lieutenant Governor. I yield my time to Senator Chambers. Thank you. [LB944]

PRESIDENT FOLEY: Thank you, Senator Kolowski. Senator Chambers, 4 minutes, 45. [LB944]

SENATOR CHAMBERS: Thank you, Senator Kolowski. This afternoon I'll have a chance to take out after your President, your President. He fixed you dumb farmers, didn't he? I am so glad that Trump, without advice of anybody, imposed sanctions on China, the biggest market on the globe. Now China is showing you what the dragon can do. China is not just bragging, they're going to put tariffs on nuts that grow on trees and nuts that sit in legislatures in these far backward hinterlands of the Midwest; and pork--pork chops, spare ribs, bacon, they'll be aching for bacon. Twenty-five percent tariff, and your Governor went to Perdue, that guy, begging him, don't mess with China. And Perdue said, the President already messed with China; he stuck his finger in their eye. And Ricketts said, but...but...but...but...but...but it's hurting farmers in

Floor Debate
April 03, 2018

Nebraska. Trump said, farmers, what are those? Let them do something else, let them get a real job and stop sucking the federal sugar tit of subsidies. Twenty-five percent tariff. But here's what's going to help all the American consumers, China is a huge market. If pork is not purchased by China, the pork producers don't want all that pork to spoil, they have to sell it to somebody, so they'll sell it in this country, making America great again by having lower prices for pork. Oh, and by the way, gasoline prices are rising, while the stock market goes down, gasoline prices go up. This is like a teeter totter, when one side is down, the other one goes up. Stock market is nervous. Then Trump, your President, is attacking Amazon, and he said that Amazon, every package causes the postal department service to lose money; but by law, by law, the postal service cannot deliver anything at a cut rate. And for the information of you alls dumb President, who I think is showing the first signs of dementia, guess what kind of products or services or activities are showing profit for the postal service? The delivery of packages. That's the only one that is showing money and it will increase. But if Amazon decides to accept what Trump said and not send these packages through the postal service, then the postal service is going to lose its most lucrative cash cow. That is what will happen. He said that Amazon doesn't pay taxes. They paid over \$120 million in taxes. You all don't pay attention to anything because you don't read. And your President, what about his taxes? He won't even show you his tax returns, which he promised to show, but you're so dumb and he knows you're dumb... [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR CHAMBERS: ...he said he likes ignorant people, which is you all,... [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR CHAMBERS: ...he's not going to show you his tax returns. He is making this country the laughing stock of the world. But the Chinese people will not have to worry about not having pork. Do you think that America is the only country that grows pigs? America is the only country that grows the products on which China will place a tariff against America? But you all love your President, don't you? The serial adulterer. The serial sexual predator. The inveterate liar. Twenty people or more have been kicked out of his administration after he told you he'll show how great his judgment is by the people that he hires to work in his administration. And yet you all love him. [LB944]

PRESIDENT FOLEY: Time, Senator. [LB944]

SENATOR CHAMBERS: Thank you, Mr. President. [LB944]

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

Floor Debate
April 03, 2018

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Krist. [LB944]

SENATOR KRIST: Thank you, and good morning, Nebraska. A few things I just want to put on the record: our two legal beagles have talked about their opinions in terms of what might or will happen. I bring to your attention that there is no prediction on what will happen, but the Supreme Court is indeed hearing a case that is relevant to what we are doing here today. They are talking about the restriction of Title X funds from any one group and the hold back of those funds and they heard arguments last week about that very issue. I asked the question on the record before, why are we in such a hurry to make monumental changes not knowing what the Supreme Court, in its current hearings, what they would opine about restricting Title X funds and being used for all concerns. That fell on deaf ears, because not only am I not a lawyer, but I didn't spend the night in a Holiday Inn Express last night. But mark my words, let this be prophetic, that Supreme Court ruling and its opinion will have some semblance, some jurisdiction over what we're doing here today. Item two, this is going to have to happen every year, every year because of what bill or what substance matter was put into this particular budget bill. So it's not a one-time thing. You're going to hear this as legislators next year, maybe, depends upon who the Governor is. It has a life of one year. This action has a life of one year. Third, I don't believe that anyone has been disingenuous. I think that Senator Wishart, Senator Howard; in particular, Senator Pansing Brooks have been very professional in the way that they have tried to defend women's rights across the board. And I will remind you also that we heard about those license plates last year. That wasn't a pro-life thing; it was a life thing. And what did we hear when the Governor came in at the end of the year? What did he tell us? The greatest pro-life bill we passed in recent history. Check it out, Google it, it's in the record. Nobody took responsibility on the floor as being pro-life, but the Governor did when he walked in. Now here's my prophecy, he will walk in here at the end of our session and he will say we are a pro-life state and this is the greatest pro-life thing we have done shutting down Planned Parenthood. Make a liar out of me, Governor, if you can, if you can resist what you have done to this state and this institution and this Legislature. Finally, I will continue as a matter of public record to vote green on this budget, because if you remember, last year during the budget debates, I tried to impart on you the necessity to override the veto...override the veto and save the provider care rates and other rates that were being cut by the Governor. It all fell on deaf ears. I think I had 16 total votes. And what happened? The prophecy came true, we have lost our institutions, the elderly have been hurt by those cuts. The children have been hurt by those cuts. [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR KRIST: The budget is the most important thing that we do every two years. The biennium budget is the only thing that we would have to do every two years. The budget should be a single-focused item moving money from place to place appropriating money. It should never have a substantive matter in it. By our constitution, and I take that very seriously and I will

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

Floor Debate
April 03, 2018

swallow and gag when I punch the green light. But this budget is for the kids, it's for the elderly, it's for the restoration of the funds. Next year I'll do everything I can to make sure that women's health issues are taken care of in my budget. [LB944]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Pansing Brooks. [LB944]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. Well, I wasn't going to speak again until my colleague, Senator Hilgers, stood up and said, oh, this isn't about defending Planned Parenthood. Senator Chambers called it disingenuous. I will at least say it's not forthright. We all know what the intention is. The Chair of Appropriations, Senator Stinner, when asked on the mike last week, said, yes, this is to defund Planned Parenthood. Senator Howard admitted that this is to defund Planned Parenthood. So I am attempting to set the record straight because I do think this record will be perused and researched and quoted in many instances, including in a courtroom. So I want to make it clear that what was happening is that this was intended to affect Planned Parenthood specifically. I think that we are specifically affecting one group who is similarly situated to another group. That is providing...providing access to healthcare. Both groups provide access to healthcare, but we are taking one and saying that one cannot receive Title X dollars. I don't think that's legal. I think it's treating similarly situated groups differently. I think there will be federal claims on this. And to say that we aren't affecting Planned Parenthood, then why the continued audits of Planned Parenthood? Why the continued assertions that there was this coding error, what I would describe as a de minimis coding error, but again, how many of you stood up and pointed to that coding error of Planned Parenthood? So this is laughable to try to set a record that this does not deal or affect or is pointed directly at Planned Parenthood. How absurd. How absurd. The amendment clearly targets defunding Planned Parenthood. It talks about those providers that assist in referrals for abortion and assist in abortions. There's only one provider, we all know it, and it's Planned Parenthood. So let this record be resoundingly clear, this is to cut funds to Planned Parenthood; cut funds to that provider of healthcare services to low income people. Thank you, Mr. Lieutenant Governor. [LB944]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Harr. [LB944]

SENATOR HARR: Thank you, Mr. President. I want to echo some of the concerns out there, because this budget has an E-clause in it, and at the same time there are currently contracts out there that do not expire until July 1, and that includes Planned Parenthood. And so I know there was a number of individuals who had concern about this. And as a result, I reached out to the Speaker. Would Mr. Speaker yield to a question? [LB944]

PRESIDENT FOLEY: Speaker Scheer, would you yield, please? [LB944]

Floor Debate
April 03, 2018

SPEAKER SCHEER: Yes, I will. [LB944]

SENATOR HARR: Thank you, Speaker Scheer. Did I contact you yesterday regarding the concerns just stated? [LB944]

SPEAKER SCHEER: Yes, you did. [LB944]

SENATOR HARR: Okay. And as a result of those concerns, what did you do? [LB944]

SPEAKER SCHEER: I tried to contact the Governor's Office and was unsuccessful and did contact the Governor later in the afternoon and...(buzzing tone)...I guess I just have that type of effect. [LB944]

SENATOR HARR: Uh, there you go. [LB944]

SPEAKER SCHEER: Anyway, I then talked to Lauren Kintner a little later in the afternoon and she said that there never was the intent of discontinuing any services regardless of the E-clause, that there were contracts and there was due notice and so forth and the contracts and that she would provide me something in writing to clarify, which you have a copy on...everyone has a copy on their desk. [LB944]

SENATOR HARR: And is that the letter you handed out earlier on the floor? [LB944]

SPEAKER SCHEER: Yes, it is. [LB944]

SENATOR HARR: Okay. Thank you, Mr. Speaker. And I'll just quickly read the letter, it says: Dear Mr. Speaker; In response to your question related to the new statutory language in LB944, the Department of Health and Human Services will not make any funding changes in the delivery of Title X program services by the current subrecipients of Title X funding prior to July 1, 2018. The department will need the intervening time to provide notice of changes made by LB944 to implement these changes and allow for a subrecipient compliance. And that letter is signed by Courtney Phillips. Thank you. Thank you, Mr. Speaker, for your hard work on this, for helping us mold a compromise and also for finding language to clarify any issues we may have with this bill. Thank you. [LB944]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Howard. [LB944]

Floor Debate
April 03, 2018

SENATOR HOWARD: Thank you, Mr. President. I, like Senator Wishart, had a somewhat difficult weekend with the decisions that we made last week and I wanted to just touch base on this. I took two weeks out of my life; I didn't think that you could spend more time on a bill than I had already spent on Senator Ebke's LB299, but unfortunately, LB944 came along and blew it out of the water. And I was really nervous going home, because my district places a lot of trust in me and has placed a lot of trust in my family for the last 14 years. And I always say that I can never take a vote if I can't go home and stand by it. And this was a hard one, because I knew exactly what was happening. I knew that the intention was to defund Planned Parenthood, and I absolutely disagree with my colleagues when they say that this was not specific to a certain provider, or they can just stop providing abortions. Saying something like that is like asking a rainbow to stop being a rainbow. It's like asking a nun to renounce her vows. It's like asking any one of us to disavow our core values. That's completely inaccurate. The entire purpose of our discussions, the entire purpose of this provision was to remove funds from a specific provider. So then I had a decision to make. The decision was--do we have all the women lose their services, 28,000 women lose these services? Women who do not have a lobbyist in the rotunda. Low income women who don't have time to take off from their jobs to stand in the rotunda and say, please, Senator Howard, will you save these services, I need a pap smear once a year. So we made a decision. And in my view we stood up for the women who don't have a lobbyists, for the women who are low income, and the ones who still need these services. We made a decision to make sure that some clinics, even if not all of them, could still provide these services for these women and some men. I've been accused of playing politics. I would argue that the only people who have played politics are the ones who sat on the extremes and said no; as opposed to the ones who said--I'm going to try to think about the women who need this more than anyone. I'm going to think about the down trodden; I'm going to think about the underdog. I'm going to think about the ones who don't have a voice. And that's what we did. And I went home this weekend and it was hard. My own mother said you failed Planned Parenthood. My constituents ranged from sitting in their living room letting them have the opportunity to tell me on abortion rights we do not compromise and we are deeply disappointed. It ranged from individuals who, after speaking with me, said I disagree with you, but I understand. And it ranged from women coming up to me in one of my poorest communities and saying we know that you made sure that I still have a place to go, even though I know I can't afford it. It also ranged to some people saying--what is Title X and what have you been doing this whole week? Because there are a lot of folks out there who put that trust in me and they know that the decisions that I'm making are the ones that are right for our district. It is cold comfort, Courtney Phillips' letter. I woke up in sweats on Monday thinking, oh my gosh, there is a 30-day requirement to tell new patients... [LB944 LB299]

PRESIDENT FOLEY: One minute. [LB944]

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

Floor Debate
April 03, 2018

SENATOR HOWARD: ...that there's somewhere that they need to go to ensure their continuity of care. And it is cold comfort that they won't be making these changes until July. It's also cold comfort that the entire grant is due May 24, and if they wanted to write in Planned Parenthood they absolutely could, because it means that they wouldn't necessarily be fully defunded because of the language that we put in place. It's cold comfort because I know that there is a provider in the state who is being targeted unfairly and it is most certainly Planned Parenthood. And anyone who tells you different is lying to your face. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Howard. Senator Bolz. [LB944]

SENATOR BOLZ: Thank you, Mr. President. I have been listening all morning and wavering about whether or not I was going to say anything this morning. I think much has been said and has been said well. What has not been said is that divisive issues don't belong in the budget and each of us has a choice about who makes those decisions in the budget. Each of you returning to this body next year will have a say in who sits around the Appropriations table. I would suggest that when you discuss in your caucuses who represents you on the budget committee, when you elect your leadership, when you send people to the Committee on Committees, you establish your standards and you hold members accountable for what is best for this state overall. I expect the budget debate to be different next year. I expect it to be more diplomatic. I expect it to be wiser, and I expect it to be in the best interest of this state overall. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Chambers, you're recognized to close on your bracket motion. [LB944]

SENATOR CHAMBERS: Thank you. Mr. President, I'll be talking about this issue probably on and off during the rest of the session. We don't have a lot of days. That plays into my hands. I have to decide what it is I'm going to do and how. But as far as this letter today, if the state has a contract with anybody, the U.S. Constitution prohibits any law that would impair contracts. No contract can be cut off by the state before the agreed termination date of that contract. So if there's a contract in place, which would not be ended before July 1, the state couldn't do it anyway. So don't think that some kind of grace is being extended. I want to show you how the Governor, the Lieutenant Governor, and President Trump operate. This is from March 16 of this year, Omaha World-Herald: Trump stick to trade claim he made up. Governor lied, Lieutenant Governor lies, President lies. The Associated Press...President Donald Trump has admitted that he made up a claim on U.S. Canadian trade when speaking earlier with Canadian Prime Minister Justin Trudeau. Speaking at a dinner with "Repelican"...Republican donors Wednesday in St. Louis, Trump said he had insisted to Trudeau that the United States runs a trade deficit with Canada. Trump said Trudeau told him there was no trade deficit. Trudeau knows more than

Floor Debate
April 03, 2018

Trump. Trump said he replied--wrong, Justin, you do. I didn't even know...I had no idea, I just said you're wrong. What kind of irresponsibility is that on the part of Senator Watermeier's President. It is the language of somebody who is slipping into dementia. Continuing: Trump claimed the figures don't include timber and energy; however, official U.S. figures show the United States has a trade surplus with Canada. Trump repeated his false assertion of a trade deficit with Canada on Thursday. He continued to hold to this falsehood that he knew was false; just like the Lieutenant Governor keeps sitting up there when he knows he shouldn't have been there the first day. But he's the pinata. Lieutenant Governor pinata. Continuing: Canadian Foreign Affairs spokesman, Adam Austen, weighed in Thursday saying, quote, According to their own statistics, the U.S. runs a trade surplus with Canada, unquote. Trump doesn't care for the facts. Lieutenant Governor doesn't care for principles, morality. The junk he talked about when he was a member of the Legislature showed how false he was. Those who are false in some regards are generally false in all of them. You know the Governor lies. Now he's got people like Senator Hilgers and Senator Murante saying that the aim of that Title X money issue was not what the Governor said it was. Because Murante wants to get people's votes. Ted Cruz endorsed him. But these "Repelicans" are concerned when someone from Washington endorses a Democrat. These Republicans are slippery, they flip-flop. I might call Senator Murante Jesus's sandals. You know why I call him Jesus's sandals? Because the name for sandals, flip-flops. So when I say Senator Jesus's sandals, it means flip-flopper. [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR CHAMBERS: I probably will add it to Senator Hilgers, too. He looks so pained now when he stands up because his own mind condemns him. He knows better. But he's looking for something beyond here. This is a steppingstone and that's why the Legislature is so disrespected. It's a steppingstone for others, and you put your feet on top of a stone. But there's a boot that Senator Hilgers licks, a boot that Senator Murante licks, a boot that most of you lick, and if your lips are examined, you'll see the Governor's boot polish on your lips. That's what happens when you lick the Governor's boots. Sycophants. That's what you are and you know it. But there is one greater than I, based on what you say you believe, who knows it too. And brothers and sisters, friends, enemies, and neutrals, that one said all liars... [LB944]

PRESIDENT FOLEY: Time, Senator. [LB944]

SENATOR CHAMBERS: ...shall have the part in the lake of fire. And in the interest of brotherhood and sisterhood, I withdraw that motion. [LB944]

PRESIDENT FOLEY: The bracket motion is withdrawn. Members, if you could please return to your desk, we're on Final Reading. If all members could please be at their desks so we can

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

Floor Debate
April 03, 2018

proceed. Proceed now with LB944E. Mr. Clerk, the first vote is to dispense with the at-large reading. Those in favor of dispensing with the reading vote aye; those opposed vote nay. Record, please. [LB944]

CLERK: 39 ayes, 4 nays, Mr. President, to dispense with the at-large reading. [LB944]

PRESIDENT FOLEY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB944]

CLERK: (Read title of LB944.) [LB944]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with...Senator Stinner, for what purpose do you rise? [LB944]

SENATOR STINNER: I would like a roll call vote. [LB944]

PRESIDENT FOLEY: A roll call vote has been requested with respect to the passage of LB944E with the emergency clause attached. Mr. Clerk. [LB944]

CLERK: (Roll call vote taken, Legislative Journal pages 1361-1362.) 38 ayes, 6 nays, 3 present and not voting, 2 excused and not voting. Mr. President, on the final passage of LB944. [LB944]

PRESIDENT FOLEY: LB944E passes with the emergency clause attached. We'll proceed to the next bill on Final Reading, LB950E. Mr. Clerk. [LB944 LB950]

CLERK: (Read LB950 on Final Reading.) [LB950]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB950E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record please. [LB950]

CLERK: (Record vote read, Legislative Journal pages 1362-1363.) 47 ayes, 0 nays, 2 excused and not voting. [LB950]

PRESIDENT FOLEY: LB950E passes with emergency clause attached. While the Legislature is in session and capable of transacting business I propose to sign and do hereby sign following legislative bills: LB946E, LB945E, LB944E, LB950E. That will conclude Final Reading for the

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

Floor Debate
April 03, 2018

day. We'll proceed now to General File. Items for the record first, please. [LB950 LB946 LB945 LB944]

CLERK: Mr. President, Enrollment and Review reports the following bills as correctly engrossed: LB596, LB714, LB741, LB745, LB760, LB803, LB827, LB865, LB901, LB903, LB906, LB909, LB923, LB940, LB940A, LB990, LB990A, LB1005, LB1008, LB1009, LB1091, LB1098, LB1119, LB1132, all those reported correctly engrossed. That's all that I have, Mr. President, thank you. (Legislative Journal pages 1363-1366.) [LB596 LB714 LB741 LB745 LB760 LB803 LB827 LB865 LB901 LB903 LB906 LB909 LB923 LB940 LB940A LB990 LB990A LB1005 LB1008 LB1009 LB1091 LB1098 LB1119 LB1132]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Now we'll proceed to General File 2018 senator priority bill. Mr. Clerk.

CLERK: Mr. President, LB947 is a bill introduced by Senator Smith at the request of the Governor. (Read title.) The bill was introduced on January 10 of this year, referred to the Revenue Committee, advanced to General File. There are committee amendments pending. (AM2542, Legislative Journal page 1066.) [LB947]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Smith, you're recognized to open on LB947. [LB947]

SENATOR SMITH: Thank you, Mr. President, and good morning, colleagues. There has been much discussion over the last two years about tax relief and tax reform and it is unlikely that I can share new information today to further underscore the problems Nebraskans and Nebraska's businesses face with respect to tax burden. By comparison to other Midwest states, Nebraska's tax structure lags in providing opportunities for greater economic growth, we lag in competitiveness of our marginal income tax rates, we rely too much on incentives for our business growth, and we crush our property owners under the weight of high property taxes. LB947 was introduced as a path to unify and to strengthen the business community, to create certainty and property tax relief, and to do so in a responsible and an affordable way. This may very well be our last and best option this year and I ask those that want tax relief to come together on LB947. I know that our businesses of all sizes depend on a healthy image for our state and a healthy business climate and this will come from a unity of purpose. I wanted to just briefly mention, I want to thank Senator Briese, Senator Erdman, Senator Friesen, Senator Groene, and many others that have worked hard to arrive at some form of tax relief. I know their intentions are good and while we may disagree on a means to property tax relief, I think we can all agree on purpose. And, again, I wanted to thank them and ask for their unity of purpose in this regard. The bill had a hearing on January 31, individuals representing various groups

Floor Debate
April 03, 2018

including the chambers of commerce and the Nebraska Farm Bureau testified in favor. Since the hearing we have taken the concerns raised by opponents and have scaled back the original bill. We have worked with stakeholders to come up with a package that is fair, comprehensive, and I believe responsible. The bill was advanced from the Revenue Committee on March 21 with AM2542, and I will speak on that in just a few minutes. As I mentioned, LB947 with AM2542 is broadly supported by citizen groups, agriculture interests, and the business community, as was expressed by testimony during the introduction of the bill. I wanted to just mention a few of those points of testimony. Mr. John Jacobs, representing himself as a landowner and banker from Norfolk, Nebraska, commented in his testimony that Nebraskans are hardworking and we need you to work even harder because we need something now and this is a start. He continues, I along with many others are looking for solutions which put us on a path for long-term success to grow Nebraska and I know we have to find solutions that generate broad support to be passed this session. John Cederberg, representing the Nebraska Chamber of Commerce, in his comments said, each year the Nebraska Chamber holds fall forums for our members throughout the state from Scottsbluff, Gering, to Omaha. We survey our members who attend these forums about their business concerns. This year 80 percent of the survey respondents indicated that their business or community faced a work force shortage. Recruiting qualified labor has become the number one challenge and it is not just mechanics or welders or operators or computerized manufacturing equipment operators, it is across every line of business. It is especially challenging in Nebraska with our relative small population and extraordinarily low unemployment rate. We are delighted to see this problem being addressed. Continuing during that testimony we heard from Dave Rippe, Nebraska Department of Economic Development. And in his testimony he stated that tax rates are an important consideration for businesses, as most business decisions are made on the last dollar earned. Reducing tax rates at the margin will increase in competitiveness of Nebraska businesses and make Nebraska more attractive for business expansions, growing entrepreneurial businesses, and attracting workers, particularly the high skilled and upper management talent many businesses are seeking. And then we heard from organizations like the Platte Institute. The Platte Institute wrote...or stated in their testimony, now that even the federal government has passed major tax relief, voter impatience for state and local tax reform is reaching a breaking point. If there's no significant action in this legislative session, Nebraskans could force a property tax ballot initiative. If it passes, the state would likely be forced to significantly cut spending on services and/or increase state rates or state tax rates at the same time. LB947 offers a reasonable path to steer the state away from uncertainty. It would have the state taking a greater role in property tax relief for Nebraskans in the years ahead while safeguarding the state budget from unrealistic promises. And the testimony continued and continued on and I did want to just make mention of that, and I wanted to also make mention of my appreciation for Senator Harr and Senator McDonnell that have had conversations with me throughout this session to talk about work force development. And they have been great proponents of finding means to improve our work force availability in our state. With that, I will close on LB947 and I will continue with my opening on the amendment. [LB947]

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

Floor Debate
April 03, 2018

PRESIDENT FOLEY: Thank you, Senator Smith. (Visitors introduced.) Senator Smith, you're recognized to open on the committee amendment. [LB947]

SENATOR SMITH: Thank you, Mr. President. And, colleagues, I wanted to continue with my opening now and dig into the mechanics a bit of the amendment and the underlying bill, AM2542 and LB947. The bill, as amended, will maintain the existing Property Tax Credit Fund at \$224 million in tax relief each year. The distribution formula of this fund remains the same it has in prior years, nothing has changed in regard to the Property Tax Credit Relief Fund (sic-- Property Tax Credit Cash Fund) under this amendment. The amendment creates a new ag land and homeowner income tax credit beginning January 1, 2018. Through the amendment these credits apply to all owners of homesteads in agricultural land, whether a resident or nonresident. Additionally, this is a refundable credit. If there's a nonresident, they must file a nonresident Nebraska income tax return to receive the credit. The credit is equal to a percentage of property tax paid. The percentage increases each year. For homeowners, the credit starts at 1 percent and grows each year until reaching 20 percent. For the first year, the credit is capped at \$25 and eventually grows to \$500. For ag land and horticulture land, the credit starts at 2 percent and increases in 2 percent increments until it reaches 20 percent. There is no cap on the credit amount for this category. The amendment phases down our corporate tax rate to match that of our top individual marginal income tax rate. Over a five-year period, the top corporate rate is reduced from the current 7.81 percent to 6.84 percent. The bill and amendment allows for a \$5 million transfer from the Cash Reserve to the Job Training Cash Fund for work force development. And finally, \$34.4 million is transferred from the Cash Reserve Fund to cover the cost associated with the bill. The impact of the credit is estimated at \$33.6 million in the first fiscal year and the reduction of the corporate tax rate is an impact of \$850,000 the first fiscal year. The total fiscal year impact is \$39.45 million in the first year and that includes the \$5 million for job training. And that concludes my opening on the amendment, AM2542. Thank you, Mr. President. Thank you, colleagues. [LB947]

PRESIDENT FOLEY: Thank you, Senator Smith. Mr. Clerk. [LB947]

CLERK: Mr. President, Senator Chambers would move to bracket the bill until April 18, 2018. [LB947]

PRESIDENT FOLEY: Senator Chambers, you're recognized to open on your bracket motion. [LB947]

SENATOR CHAMBERS: Mr. President, members of the Legislature, there's going to be some discussion by people on both sides of this bill, which is not a good bill. But all I offer my motion for is to give Senator Smith a belated April Fools. I withdraw my motion. [LB947]

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

Floor Debate
April 03, 2018

PRESIDENT FOLEY: Motion withdrawn. [LB947]

CLERK: Mr. President, Senator Erdman would move to bracket the bill until April 18, 2018. [LB947]

PRESIDENT FOLEY: Senator Erdman, you're recognized to open on your bracket motion. [LB947]

SENATOR ERDMAN: Thank you, Lieutenant Governor. Mine is not an April Fools. This is one of the most ridiculous pieces of legislation that I've ever seen in my life. I listened to Senator Ebke's comments last Thursday and she correctly stated that the Governor has lost his way and he has no understanding what separation of powers is. When I was running for election, I made comments about the Governor's LB958 that was passed in '16. And that was supposed to be a property tax bill for agriculture and it gave \$20 million to agricultural relief and it gave \$30 million to the Learning Community. Even though Senator Chambers says we're from the west and not well educated, we do understand a few things and we understand when the Governor gives \$20 million and calls it property tax relief to agriculture and he gives \$30 million to the Learning Community in eastern Nebraska, we understand where we stand. When I met with the Governor in June of '16, I told him that his property tax relief didn't mean anything for rural Nebraska. He disagreed. I said, we'll see. Fast forward, we had an election in November '16. He came out totally opposed to me as a candidate for one certain reason. If you want to get crossways with this Governor, there's two things you can do that you can never get back across the bridge. One, be against the death penalty. Senator Ebke and a few others can verify that. The second thing you can do is actually be for property tax relief, because you see, this Governor never has been, never will be for property tax relief. This Governor has complete control over the Revenue Committee and the Chairman, Jim Smith, Senator Smith. I met with him earlier this year in January and asked if he was going to do a change of valuation on ag land from market to income and his answer was this: No, I'm not doing that this year. Why is that? Well, because the chamber of commerce and the railroads don't like it, was his answer. Well, it took me a while to figure out who runs the state here, but I got it figured out. It's the chamber of commerce, Buffetts, and the nonprofits, they run this Legislature. When you hear the word, LB640, Senator Groene's name comes to mind. When the bill, LB1084 comes to mind you think of Senator Briese. LB1103, you think of Senator Friesen. When you hear the number LB947, what comes to mind? It's the Governor. So when I was running for the Legislature and then I got elected, I figured we would make a valuation change. So I called Taylor Gage one day before I took office and said, can you set up a meeting for me? I'd like to have a gentleman come explain the valuation process. And he said, oh, we can't do that. We can't do that because we have to have a separation of powers. So you'll have to set that up and then invite us. Well, that don't seem to be a problem when he called you over numerous times to talk about LB947. And he has many meetings at the mansion or in the Room 1023 or wherever they have their meetings and there's

Floor Debate
April 03, 2018

probably only a couple people in the body gets invited less than I do. That may be Senator Chambers. This is a joke. So if you're running for reelection and you go and tell your people that pay residential property tax that if you have a \$2,000 property tax bill you're going to get \$20, they're going to really think that's something. Senator Jim Cudaback used to have a saying and it went like this: It's better to want something that you don't have than have something you don't want. The Revenue Department shows that the average increase in property tax valuations and taxes over the last 12 years have been 5.63 per year. So, if you're in agriculture and your values are going up 5.63 percent and you get a 2 percent reduction, that's really going to help because your increase is only going to be 2.63 percent. That really helps...3.63 percent. We had a chance to talk about property tax...real property tax relief, but no one wants to do that. What we want to talk about is an illusion. Earlier on, on January 13 there was a meeting in Omaha, the Central Committee for the Republicans, and something happened at that meeting that has probably never happened before. A sitting Governor took some of his campaign funds and made up a flier against a bill that was introduced in the Legislature that hadn't even had a hearing yet, LB829. The flier was left on every seat how you should be against LB829 printed by funds from the Pete Ricketts campaign. Unheard of. Unheard of. Separation of powers? We don't have such a thing here. And I will contend this, those of you who received funds from Pete Ricketts, from Governor Ricketts in the last election would have probably won without his support. But the one that he wanted to beat, the one that he didn't want to come here, there's nothing he could do to stop that either. You see, the 47th District wasn't for sale and it still isn't. I didn't come here to take this back to my people and say this is property tax relief, because this is not property tax relief. This is too little, too late. And he bragged about my bill taking revenue from one group, cutting taxes from one group and raising taxes on another. That's exactly what this does. If you're in commercial, you have a business, how much property tax relief are you going to get? So when your ag land values have gone up more than the 2 percent you're going to get for your reduction, don't come to me and whine about the fact that your taxes went up. You have a chance to make a real difference and this is not it. This is a joke. This is an illusion. There's no way on God's green earth I could support either one of these amendments or this bill. Thank you. [LB947 LB640 LB1084 LB1103 LB829]

PRESIDENT FOLEY: Thank you, Senator Erdman. (Visitors introduced.) Debate is now open on the bracket motion on underlying bill. Senator Friesen. [LB947]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. I have been looking forward to this day since the beginning of the session. We get to talk about taxes. I've spent my previous three years here trying to do something about how we fund K-12 education. We put everything on the table that we could possibly put, we have looked at raising taxes to help with the tax shift back. I've said I was willing to do almost anything to try and raise the money to fund K-12 in a proper way that the state should meet its obligation. And I have worked well with Senator Smith in the past and I will continue to work with him trying to make his bill better, but the way it's currently

Floor Debate
April 03, 2018

written and with the amendments I've seen, I can't support this bill. When you take property taxes in the rural areas that have gone up 180 percent over ten years, that's averaging 18 percent a year increase. To throw a 2 percent refundable income tax at that is not what I was looking for from the start, it's not what I'm looking for today. I've always said I'm willing to work to accomplish this over a period of years. But to do this over a period of 12 years is not substantial, it's not up-front and it doesn't deal with school funding the way I've envisioned it. I still look forward to the debate here because I think it's something that we have to do and that we should do it in an honest and forthright manner and talk about the state's obligation and how we fund K-12. We've got school districts that receive maybe 1.5 percent to 2 percent of their total funding from the state and there are schools that receive over 50 percent of their budget from the state. We have to narrow that gap. If you're going to talk about how much we love our kids by how much money we send them, we need to look at the TEEOSA formula and how it distributes state aid. We have school districts that have high cost. They may be spending \$25,000 or \$26,000 or \$27,000 per student to educate that child, but they have consolidated as far as they can consolidate. They've cut expenses where they could. They're just in a very sparsely populated area and they need more state aid and yet they do not receive it. So until we are willing to address these issues and talk about how we fund K-12 I'm still looking for other ideas. And there's numerous bills out there and in the past everything always got caught in committee. We very seldom had a chance to discuss it. I know Senator Groene has LB640 out there. There's numerous ways of approaching this, but there has to be a way where we can all sit down and say we're adequately funding our K-12. So when you look at the recent publication that just came out and it talks about "Nebraska At a Glance," we spend quite a bit higher than the national average on our higher education and we're quite a bit lower than the national average on our K-12. And yet, in our constitution the state says that they're obligated to fund the free instruction of our K-12 students. Somewhere we've got some numbers turned around. And I think it's time we get started on this. And I will admit...to be the first to admit that we cannot fix this in one year. I have not been a big fan of the petition drive, but if the Legislature can't address this problem, I will sign the petition and I will vote for it and we... [LB947]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: One minute. [LB947]

SENATOR FRIESEN: ...will fix this problem next year. So I'm looking forward to the debate. I know there's a lot of people have ideas on this bill. But again, I will look for ways to fix it, to make it more amenable to where I want to end up. But in the end, I hope we have a good discussion on where we're going as a state and how we fund K-12 instead of the refundable tax credit. Thank you, Mr. President. [LB947]

Floor Debate
April 03, 2018

PRESIDENT FOLEY: Thank you, Senator Friesen. Waiting to speak in the queue: Senator Bolz, Krist, Kuehn, Briese, and others. Senator Bolz, you're recognized. [LB947]

SENATOR BOLZ: Thank you, Mr. President. I've been reminded by many people this year and by many people over the course of my legislative career about my agriculture roots, and I'm really very proud of them. They are a part of a tradition that I'm proud of and I am in no way, shape, or form blind to the pressures of property taxes on our agricultural community. But to make this bill just about that issue is to oversimplify because there are other traditions and other priorities that are at play when we make long-term decisions without sustainable funding streams as are proposed in this bill. We need to also consider our tradition of caring for our seniors like the nursing facility in Syracuse that cared for my grandfather, a farmer, for decades; the Nebraska Opportunity Grant which helped my sister and I, daughters of a farmer, go to school; and the K-12 system where my nieces, great-granddaughters of farmers, who go to school in Bennet, Nebraska. So when we have a bill that commits resources in the out years, we pit these traditions and these priorities against one another. And so I rise with several concerns about LB947. The first concern is about the transfer of \$39.7 million from the Cash Reserve for new purposes. At this point our goal should be to rebuild the Cash Reserve. In fact, the target articulated in the Appropriations Committee book is 16 percent of our annual net receipts or \$746 million. This proposal would take that number down to \$256.7 million, and my quick math is that that's about 35 percent of our target goal. It's not the right time to do that, colleagues. It places us in a position where we're not able to respond to urgent needs like the \$55 million we just passed for child welfare in the budget or the \$75 million we passed last year for capital construction in the Department of Correctional Services. The proposal also assumes a growth rate at 6.4 percent per year, but our growth has not been that ambitious. It was .3 percent in '15-16, about 1 percent in '16-17, which makes me further question the sustainability of this proposal. And I would direct all of your attention to "Nebraska's Revenue Volatility Report," which illustrates that in black and white. Our overall average, you remember, is 4.9 percent. But the ag increases in this proposal increase over time in a way that I'm not sure our budget can keep up with. Other factors relating to volatility include federal policy and changes, international economic policy which are currently being debated on the national level, and the costs that we'll have to face in our very next fiscal year when we come back next year. It's the wrong time to enact some of these long-term, unsustainable changes. The Appropriations Committee has done three budgets in the last two years and we've had to cut higher education, healthcare providers, and education. And this proposes a new and growing expenditure without offsets. I think we've had plenty of conversation on this floor already about how some of those proposals that create future obligations have created difficulties for our budgeting. For example, the Nebraska Advantage program, which grew to \$270 million in 2016 over the \$153 million in 2015. [LB947]

SPEAKER SCHEER: One minute. [LB947]

Floor Debate
April 03, 2018

SENATOR BOLZ: So, colleagues, I rise with serious concerns about this proposal. I'm not sure it's the right solution and I'm fairly confident it's not the right time. That said, it is the right time to have this conversation. It is the right time to discuss and debate solutions. Senator Friesen put some of his ideas on the record this morning and I applaud him for that. I, myself, have brought the property tax circuit breaker program to the Revenue Committee multiple years, because it's a way to target our tax relief in a way that is sustainable and financially responsible. So, colleagues, this isn't the right proposal and it's not the right time. It is the right discussion, and we all have to be committed to continuing to find solutions and discussing options so that we can move forward as a state to protect all of our traditions and all of our priorities. Thank you, Mr. President. [LB947]

SPEAKER SCHEER: Thank you, Senator Bolz. Senator Krist, you're recognized. [LB947]

SENATOR KRIST: Thank you. And again, good morning, Nebraska. This is the wrong bill at the wrong time in our history for all the reasons that just the few speakers that have come before me have brought up. What needs to happen long term is the three-legged stool needs to be rebalanced, that the 30 percent of income tax that was going towards education and funding education that was happening six or seven years ago instead of the 2 percent that is currently going towards education out of income tax needs to be restored. There are several giveaways that we have on the books that could restore \$80 million to \$180 million, just two of them, just two of them bringing money and bringing funds back into the system. But we don't have the intestinal fortitude as 49 to say those tax refunds are going away because you also need to pay your fair share in terms of rebalancing this budget. I have watched for ten years as the Revenue Committee continued to kick the can down the road in terms of making tax proposals that were sound, that were deliberate, and instead over ten years I have watched our savings account, our Cash Reserves, be depleted. I will remind you again the broken Krist record is, had we not had the infusion of federal money in the 2009-'11 time frame, we would have no Cash Reserve. We roughly had \$250 million at the end of that period of time, which is exactly the amount of money that the federal government infused into the state. Check it out. Google it. It's a matter of record. So we continue to pull money and propose pulling money out of that rainy day fund, Cash Reserve, that we are desperately going to need if you've listened at all to Senator Schumacher and others on this floor talk about what can happen and what has happened and what will happen in the future. We're once again seeing a plan that I will label as inside-the-box thinking of how we're going to grow this economy by cutting taxes on the richest and promoting the construction, reconstruction, growth of an industry. We're at structural unemployment, folks. This is not the way to grow the economy. And we can argue all day long about whether the money that's being...that has bought votes within this package, adding to job training in different ways, and doing different things is viable, those individual items, I find they are viable if we had the money to do them. But not now. It's the wrong bill at the wrong time in our history. And once again, Senator Erdman hit it right on the head. He doesn't have to have a very large hammer to hit that

Floor Debate
April 03, 2018

nail on the head. This is the Governor's interference in the legislative process trying to cut taxes, trying to have something productive happen, and we haven't in the last three years. In order to get serious about this kind of tax reform and process we have to rebalance all of our taxes. I would contend we go back to a point in the 1960s when we were forced to look as a state at our taxes and make wholesale changes that are good. And that's not going to happen in one year, as Senator Friesen said, it's not going to happen in this bill for sure. Senator Erdman has a bracket motion up there that if you vote for it... [LB947]

SPEAKER SCHEER: One minute. [LB947]

SENATOR KRIST: ...will kill the bill because of the bracket motion until 4-18-18, which is beyond our legislative session. So once again, the Governor is putting you all in a box. I have a motion up there, if we ever get past the bracket, that will just recommit it to committee. I don't think any one of these ideas is bad by itself, but I think the lack of thought and thinking outside the box has got us to a point where once again you're darned if you do and darned if you don't, because the Governor and Senator Smith have put us in a position to vote for something that is not good for the state of Nebraska. Thank you, Mr. President. [LB947]

SPEAKER SCHEER: Thank you, Senator Krist. Senator Kuehn, you're recognized. [LB947]

SENATOR KUEHN: Thank you, Mr. President, and thank you, colleagues. I stand in opposition to the bracket motion not in the fact that I am in love with LB947 or AM2542, but rather because I think it's high time we had a discussion specifically about property taxes on the floor of the Legislature. As this is my fourth year, each year there's been something which has come to the floor and for a wide variety of reasons the debate and discussion gets truncated and we go off into talking points or we talk about not this bill, not this time, and rather than talking about the substantive ideas and actually bringing together from the floor all of the different concepts and perspectives that can help address what is a critical problem across the state. And while I certainly come to the problem of property taxes as an ag landowner, as someone who has seen the burden result in not just lack of profitability, but in some cases driving my contemporaries out of full-time agriculture, from being a financially viable full-time occupation, forcing them and members of their family into off-farm jobs to make ends meet, I do want to keep the discussion going over the next however many hours on LB947. And I guess I implore of my colleagues that we discuss concepts and ideas. And even if LB947 is not the right vehicle, it's not the right solution, let's start talking about what is. My frustration has been that these are conversations that happen strictly within the Revenue Committee. And if you're not a member of that committee or you're not part of the privileged club with the right special interest in the lobby, your voice does not contribute to the amendments and the language that comes forward. And as part of my frustration with LB947 in that there is a lot of things, there's some earmarks

Floor Debate
April 03, 2018

and things to get people on board to build this coalition--as I've heard it stated--that don't really address a structural change to what we all know and recognize as the problem with Nebraska's property tax system, however you come at that, whether that is an issue of giveaways in the tax code, whether that's ineffective and improper ways of funding K-12 education. We throw in all of these distractions to try to get votes around a cloture motion that take us away from the real core of the issue and just kicks the can down the road for another year. And that is getting consensus in this body, on this floor for our homeowners, for our property owners about what we are going to do in terms of property tax policy. One thing has kind of stuck in my craw a little bit in this particular bill is the kind of stuck out sore thumb appropriation to the Job Training Cash Fund. It's not that I'm opposed to job training, not that I'm opposed to the Job Training Cash Fund, but it seems awfully odd and atypical to have a cash fund transfer in a tax relief bill. That's problematic for me in a number of ways because earlier this morning you saw my vote red on the cash transfers bill and the Cash Reserve bill, which is consistent with my votes in committee, consistent with my votes on General File, and consistent with what I've said on this floor, which is if we're going to be tapping the Cash Reserve that needs to be a priority set above all others. And we cut in the budget we just passed a lot of programs that do a lot for job training. So now we're putting money into or considering a \$5 million transfer from the Cash Reserve to the Job Training Cash Fund which I'm guessing that 40 out of 49 people in here don't really have any idea what it is or how it does. And I encourage you in the next few moments or sometime today... [LB947]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: One minute. [LB947]

SENATOR KUEHN: ...to go to the Web site and take a look at exactly what the Customized Job Training program by DED does. And I'm going to read to you exactly who is eligible. All Nebraska for-profit businesses who sell products and/or services to markets outside the state are eligible. Retail businesses selling goods and services to a mostly local market would not be eligible. So if you think this is a cash fund transfer that's going to help train social workers for use here in the state or train individuals for work force to provide services targeted at Nebraskans, it's not even what the fund does. So while I recognize that we have a number of motions which have priority pending on the desk, I am stating now it is my intention to ask for a division of the question when we move through these amendments and get to the actual discussion of AM2542 so we can discuss the \$5 million cash transfer independently and then get back to the business about talking about tax policy and tax code. [LB947]

PRESIDENT FOLEY: Time, Senator. [LB947]

Floor Debate
April 03, 2018

SENATOR KUEHN: Thank you, Mr. President. [LB947]

PRESIDENT FOLEY: Thank you, Senator Kuehn. Senator Briese. [LB947]

SENATOR BRIESE: Thank you, Mr. President. Good morning, colleagues. I'd first like to thank Senator Smith and the Governor for shifting their emphasis and focus in this bill from the emphasis and focus from LB461 last year. They shifted to recognize the need for property tax relief and Nebraskans do appreciate that shift in focus. But I do have some concerns about LB947. First of all, I question how we're going to pay for this. The current budget assumes 6.5 percent revenue growth in the out years to help us crawl out of the situation we're faced with, but some models, as we saw in the yellow budget book, suggest 3.5 percent to 4 percent growth. If we only see 3.5 percent to 4 percent growth in the out years, folks, we're in trouble. Then I consider all the demands on our revenue that Senator Schumacher has referred to numerous times over the last couple of months, and those are sobering thoughts when we consider his warnings and cautions. And my thought is if we can't pay for this down the road, Nebraskans aren't going to get property tax relief under LB947. And also the timing of the relief in LB947 concerns me. For young ag producers drowning in red ink because of the fifth highest property taxes in the country and for young urban homeowners forced out of the housing market because of the sixth to seventh highest property taxes in the country, relief delayed is relief denied. Those folks can't wait several years. They need immediate property tax relief. I think all of us realize the need for property tax relief, but the level of intensity from one senator to another varies. But rest assured, the level of intensity on property taxes is off the charts when you talk to Nebraskans. Our intensity should match that of Nebraskans. And the approach to property tax relief varies from one senator to another in this body. Obviously, my approach in LB1084 differs from the approach contained in this bill. I think we owe it to Nebraskans to debate all approaches whether it's Senator Smith's, Senator Groene's, Senator Erdman's, Senator Friesen's, Senator Wayne's, or anybody else's or my approach. Nebraskans deserve the debate. As we consider these approaches, we have choices to make. We can choose a path of substantial property tax relief or we can go small and work around the edges. We can choose immediate relief or we can defer relief till years down the road. We can step up and tell Nebraskans, here's how we're going to pay for it or we can defer that decision to future leaders and future generations of Nebraskans. We can tie infusion of new revenue to a formula that will limit property tax growth or we can say, your rebate is coming, but we're not going to attempt to control the increase on your property taxes. As I answer those questions, it's clear to me what our approach to property tax relief should be. Colleagues, you're not going to deliver the immediate and substantial property tax relief that Nebraskans need without changing how we pay for things. And that means replacing property taxes with other forms of revenue. We need to look at infusing new revenue to reduce our reliance on property taxes. When we collect 70 percent more in property taxes in this state than state, local, and motor vehicle taxes, Nebraskans deserve that discussion. When we collect 50 percent more in property taxes in this state than corporate and individual income taxes,

Floor Debate
April 03, 2018

Nebraskans deserve that discussion. And when we're second in the country in the percentage of K-12 education funding derived from property taxes, Nebraskans deserve the discussion. When the average state funds 50 percent of its K-12 costs and in Nebraska we at the state level fund about 29 percent of our K-12 costs... [LB947 LB461 LB1084]

PRESIDENT FOLEY: One minute. [LB947]

SENATOR BRIESE: ...thank you, Mr. President...shoving most of the rest on the backs of our property taxpayers, Nebraskans deserve the discussion. Colleagues, contrary to what those outside of the glass might say, Nebraskans support raising other tax dollars to be used to offset the property tax burden. Polls in my district show that. Polls statewide will show that. And if we're here to represent everyday Nebraskans, we have to talk about new revenue. And we must go down the path of new revenue. But today we're here to discuss a different approach. We've heard some good debate so far and I look forward to continuing discussion on LB947. Thank you, Mr. President. [LB947]

PRESIDENT FOLEY: Thank you, Senator Briese. Senator Morfeld. [LB947]

SENATOR MORFELD: Thank you, Mr. President. Well, colleagues, Christ truly has risen because Senator Erdman and I agree on something, this is a bad bill. Two different points on that matter. First, I have repeatedly said in public and on this floor that for a Governor who has talked about being a business governor, I wish he would run the state like a business. And the bottom line is, is that if I, who does not even run a business, runs a nonprofit, if my nonprofit was running at a deficit and then I went into my board of directors and said, by the way, not only are we going to cut services, we're also going to cut revenue, I'd walk out of there without a job. The bottom line is, is that we don't have enough revenue as it currently stands to fund the critical services that we need to fund. We've got a broken Department of Health and Human Services system, we have a broken Corrections system, and the list goes on. We have K-12 education needs that are only increasing, not decreasing. In order to provide the property tax relief that is necessary in rural and urban areas, we must increase revenue in other areas to right the three-legged stool. And this is not the approach to do that. In terms of the \$20 in relief that some of the folks in my district will receive, I think if you go door to door and ask them--and I've done it a little bit over the last year--hey, would you like \$20 in tax relief or would you like affordable healthcare, they'd probably tell you I'd like affordable healthcare because the \$20 isn't going to save them from losing their house. The \$20 isn't going to save or allow their ability to feed their family, when unexpected medical issues arise. We need a responsible approach to balancing our tax system in the state of Nebraska. I'm in support of doing that, but it has to come with revenue coming from somewhere else. And this is not the correct approach. I will support Senator

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

Floor Debate
April 03, 2018

Erdman's bracket motion and I will not support the underlying bill if the bracket motion fails or any amendments to it. Thank you. [LB947]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Erdman. [LB947]

SENATOR ERDMAN: Thank you, Lieutenant Governor. Good discussion so far. As you listen to the comments that were made about the Revenue Committee and the things that happen there and the comments that Senator Kuehn made, we had plenty of opportunities this year with the bills that were introduced in the Revenue Committee to have this discussion more than just today. But as I said earlier, when the Governor controls the committee and the Governor doesn't want those other things to get here, they don't get here. That's a problem. We should have had a discussion on all those bills, those bills should have come to the floor. We should have had a discussion about LB829, we should have had a discussion about LB1084. We did discuss LB640 and may talk about LB1103. But that's not how it should work, but that's how it works here. Let me reiterate so you don't miss what I said. This body is controlled by the chamber of commerce, the Buffetts, and the nonprofits. If you don't believe me, just put your ear to the ground and start listening to what happens here. This is taking money away from the commercial and the business people, taking your tax relief away, and giving it to someone else. A 2 percent increase in property tax revenue for agriculture when their expenses are going up. I'll give you this example, a rancher stopped me last week and he said, my property tax is costing \$123 per cow per year, so you give me 2 percent off. He said, wow, that's almost \$3. That's really a big deal. I don't know if I can make it. A residential person says, you're going to give me \$25? My property tax is \$3,420 and you're going to give me \$25 back? And I get these e-mails from people saying, hey, you got to vote for LB947 because it's a great start. It's a great start. Twenty years from now it may mean something, but the information that I have is as values keep going up and so do the taxes, in ten years you'll barely be breaking even or maybe staying the same, hopefully. It's too little, too late. So as you move through the information that I have picked up and gathered over time, "The Hightower Report" shows Nebraska as the fifth highest property tax state in the nation. We pay more property tax than New York, New Jersey, California. We are the second highest tax state all fees and all taxes collected, second only to the infamous Illinois. And they're in good shape. And so you see my votes this morning on the budget. I didn't like that budget, maybe you didn't know that. We're broke. We're robbing Peter to pay Paul and Senator Harr explained exactly what that meant earlier in the session if you were listening. It doesn't mean anything. This bill wants to transfer another \$40 million out of the Cash Reserve. We're not broke yet, we want to get a little more broke than we really are, living paycheck to paycheck. This is not the answer. This isn't even close to the answer. I can't even believe we're having a discussion on this one. But what we should have had a discussion on every bill that was introduced that had to do with property tax relief. This body never has and I'll make this statement today and go on record as they say, never will... [LB947 LB829 LB1084 LB640 LB1103]

Floor Debate
April 03, 2018

PRESIDENT FOLEY: One minute. [LB947]

SENATOR ERDMAN: ...make a tough decision unless they are forced to. Unless this body is forced to make a decision, we make no decision. So let me just tell you this, if you're out there listening and you hear my voice, sign the petition. It's time for real property tax discussion, not an illusion. Sign the petition. Thank you. [LB947]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Harr. [LB947]

SENATOR HARR: Thank you, Mr. President. I want to thank Senator Smith for those kind words he gave earlier. Senator McDonnell and I did try to work with the Governor and with Senator Smith, because if we are to have serious tax reform, and specifically property tax reform, it's going to take a coalition. It's going to take support from rural Nebraska, from the business sector in Nebraska, and also from people who are concerned with the employees, work force development. And Senator Smith realized that early on and he worked hard to bring a coalition together. Senator McDonnell and I worked with him on that. We had asked for \$20 million in work force development and I don't know if anyone saw there was an article in yesterday's Wall Street Journal that said Iowa is giving \$18 million to work force development. More specifically, that \$18 million is to provide free job training, of which our work force development bill had a mere \$7.5 million. Our Governor said, we can't afford that. Folks, we can't continue to cut. We have to find a way to grow our economy. We are at a crossroads. For the eight years that I have been here, we have constantly been impoverished. We don't have extra money, and yet at the same time we have consistently been in the bottom four or top four in unemployment, meaning we have the least. How can that be? How can we be at nearly full employment, if not completely full employment, where we currently have more jobs available than we do people and yet we have deficit spending. Is it because we spend too much? The Governor has been working and done a good job from cutting our budget with Senator Stinner and have taken advantage of what the private sector has done, which is to automate and eliminate jobs. But there are certain jobs that you cannot automate. You cannot get automated prison officials. You cannot get automated social workers. You cannot get automated judges, prosecutors. The business of government, there are certain parts that you just have to have people for. And to a large degree, we have had over the last, I would say since 1986, the last 32 years, fiscally conservative Governors. I don't think anyone would say we've had tax and spend Governors. I don't think anyone would say we had tax and spend Legislatures. The last time we had a major tax increase was Kay Orr and that was incidental. That was due to a change in the federal taxes that led to a windfall for the state. So what's going on? What are we doing? How do we keep our kids here, our best and brightest, that we pay for K-12 education? And then how do we upscale those people at the lower end of the wage scale to make sure that they are making enough money that they can support their family, they don't take advantage of government services, and they make enough money that they

Floor Debate
April 03, 2018

actually pay taxes? That's where our emphasis should be. The more people we have here, the less of a burden we're going to have on our property taxes. [LB947]

PRESIDENT FOLEY: One minute. [LB947]

SENATOR HARR: Thank you. Just quickly, Senator Erdman handed out a sheet earlier this session and I took somewhat of an exception to it because number three it has the Harr house and it has how much I pay in taxes. I take exception to it because it's my home. It's my most valued possession that I have. And I see on here that every year I get the distinct honor of paying \$6,282 in property taxes. Let me tell you, folks, \$25 out of \$6,282, if you think that amounts to a hill of beans, you're crazy. If you think that appeases me and says, property tax problem solved, you're crazy. The Governor is crazy to think that. On his home, that's worth a lot more than mine, he gets the same \$25. [LB947]

PRESIDENT FOLEY: Time, Senator. Thank you, Senator Harr. Senator Bolz. [LB947]

SENATOR BOLZ: Thank you, Mr. President. I rise in support of Senator Kuehn's motion to divide the question. I think we do need to have a conversation about work force development. Senator Krist referenced the Krist broken record earlier this morning and I think the Bolz broken record is this subject. It's been said numerous times on the floor that the chamber of commerce's number one issue every year that I have been in the body has been work force development. The "SRI Report," which was commissioned by our own Department of Economic Development, it established high quality, high skilled jobs as one of our top priorities for economic growth. And so I do think that that provision, the \$5 million identified for work force development, is an important subject. However, that \$5 million in comparison to the rest of this bill is a drop in the bucket. And that \$5 million in comparison to the holdback that we have had to institute in terms of our Job Training Cash Fund, our Site and Building Development Fund, and our InternNE program is not enough. That said, I think there are plenty of opportunities that exist already for us to invest more in work force development. For example, \$5 million would fund 3,828 students through the Nebraska Opportunity Grant program. Students could go to community college and earn a trade, they could go to a four-year education institution and go on to med school. Three thousand eight hundred twenty-eight students could benefit from those dollars. Other ways include a couple of bills that I've brought around work force development. For the past couple of years, I've brought the student loan tax credit, which is an innovative way of adding a new benefit to employees in this state to try to attract and retain young workers who have on average a \$26,000 student loan debt when they graduate from college. Other options include, to Senator Kuehn's points, investing in the Job Training Cash Fund, but increasing the quality criteria, making sure that those dollars only go to jobs and job training that are high skilled, high quality, have career advancement opportunities, and come with benefits. So, colleagues, I do applaud this

Floor Debate
April 03, 2018

bill and the people who crafted this bill for integrating the recognition that job training is an important aspect of our overall economic vision, but I think we need to keep pushing that ball forward. I hope that Senator Kuehn's motion to divide the question is supported, because I do think that work force development and work force investments are an important part of this bill that deserve further debate. Thank you, Mr. President. [LB947]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Krist. [LB947]

SENATOR KRIST: Thank you, Mr. President. And again, good morning, Nebraska. Senator Kuehn brought up some interesting points about the discussion that we have not had, I believe, for the ten years that I've been here, and that is the discussion about tax modernization and reduction of property taxes and a rebalancing of the three-legged stool. My question to Senator Kuehn, just in general, because I don't see him on the floor, is his proposal...can you yield to a question? Could Senator Kuehn yield to a question? [LB947]

PRESIDENT FOLEY: Senator Kuehn, would you yield, please? [LB947]

SENATOR KUEHN: Yes. [LB947]

SENATOR KRIST: It's more a dialogue than a question, so just engage me, if you will. [LB947]

SENATOR KUEHN: Sure. [LB947]

SENATOR KRIST: I think that, again, there are no bad ideas within this bill. There are probably no bad ideas within Senator Briese's, Senator Friesen's, and many other proposals that we have not been able to talk about this year in particular. My issue is where that money is coming from and how we are basically spending our savings to better our position. Can you speak to that just from your perspective for a minute? [LB947]

SENATOR KUEHN: I mean, are you referring to utilizing Cash Reserve funds for any part of the bill or just the issue associated with Job Training Cash Fund or what specifically are you wanting to know? [LB947]

SENATOR KRIST: I'll leave that an open-ended question for you to respond to in several ways if you want to. [LB947]

Floor Debate
April 03, 2018

SENATOR KUEHN: I think the Cash Reserve has a place and a use in terms of that bridge funding that we need long term to have some sort of structural long-term property tax relief, which is why as I've stated before during the budget debate that I am staunchly opposed to not being very mindful of how we use those dollars and prioritizing those transfers, not just using it as a fund out of which to dip to fund priorities that may or may not rise to the top. So for me, the Cash Reserve and the size of the Cash Reserve goes hand in hand with our ability for long-term structural property tax relief, whether that's reforming K-12 education, whether that's moving into a different budget cycle where we're able to look at the long-term financial stability of any changes that we make. [LB947]

SENATOR KRIST: Okay, I would agree. I would engage or suggest that once we get to a point wherever that bottom is on that rainy day fund or cash savings fund, we can no longer invest that money. We have to reserve that money for specific purposes long term. That's my opinion. You don't have to agree with it, but I just think that as we get down into the \$200 million, \$250 million mark, we should be mindful of what's happened historically in the past in coming forward. The last question--I guess, again, I'll leave it open ended--is, is there enough time in this session, in this day, in this debate, to actually dissect this bill and try to make it better, because a substantial part of it is that I would call it overspending, overutilization of our rainy day fund in order to incent something that I don't think is sustainable in the long term. Up to you. [LB947]

SENATOR KUEHN: I'll be an eternal optimist. There's always time. With the right motivation and the right desire, a lot can be accomplished in a short period of time. My question and my reason for bringing up the different issues that are brought forward is we don't ever seem, in my opinion, on this floor to have the discussion about the big elephant in the room, and that is, what ultimately do we do to address structural changes to the property tax issue? It tends to get muddled up and mucked up with all the other bills on the agenda and the other components of the bills that come forward. [LB947]

PRESIDENT FOLEY: One minute. [LB947]

SENATOR KRIST: And I would agree with that. [LB947]

PRESIDENT FOLEY: One minute. [LB947]

SENATOR KRIST: Thank you for your courtesy and responding. Folks, once again, I'll go back to the same principles. If we could take a bit of Briese, a bit of Friesen, a bit the Governor's, and even a bit of conversation about what we really want for job training in this state, we could have a discussion. I'm just not sure in the limitation of three hours that we can structure what the Revenue Committee probably should have been discussing during the last ten years, if not

Floor Debate
April 03, 2018

specifically the in last couple of years. It's unconscionable to me that we are still giving those tax giveaways away at a time when we absolutely need the revenue bringing them back in. We don't have the guts to do what we need to do and identify some of those. I can tell you from talking to the richest people in this state, they're not interested in a tax deduction and they're not interested in a giveaway. They're interested in not becoming Kansas. And that's probably the last time I'll talk about this bill this morning in any destructive way. I'd love to have a constructive conversation about it. I just don't think it's possible. [LB947]

PRESIDENT FOLEY: Time, Senator. Thank you, Senator Krist. Senator Brasch. [LB947]

SENATOR BRASCH: Thank you, Mr. President, and good morning, colleagues. I do stand in support of LB947, the committee amendment, but not the bracket motion. This is, as you know, my eighth year. There are several of us who have heard at least eight tries at reducing taxes, property taxes, specifically ag land taxes. Senator Krist has been here ten years. The bills keep coming forward multiple times, in good economic times and bad economic times. Because this is our last session here, I feel like it's the swan song of attempting to lower taxes. I do know that there are other senators before us, before term limits that also introduced legislation to help address the three-legged stool to change that. I have been on the Revenue Committee, and believe me, it is no club. I've been told the only other committee that is as glamorous--if you want to call it that--is Appropriations Committee. That's where the money comes, that's where the money goes. So I don't ask for any type of accolades or blame, but there's a lot to look at when it comes to taxes. I'm afraid that in the state of Nebraska if you look back 151 years ago when this state was founded and we looked at what all of Nebraska was going to be, people believed truly in their hearts that today Nebraska would be at six million people. Six million. But today we barely grew to two million people and that was a boom of growth to get to two million. And our rural areas...because of that, we have 93 counties to address this six million people that never happened. And with our rural counties and the counties that are there, there are costs in having 93 county governments. But there is a loyalty, there is a need, we want to keep our county seats that may only be 16 miles away from each other or less just because, and they are busy, they have their hands full. When I was first running for office, I was told, do not talk about consolidating counties and that talk went away. Instead, we consolidated schools. We reduced our county schools to where we can reduce no more, but our urban schools are growing. So, yes, we need to look at how to fund the growth in our schools and yet retain our local schools. But when you look at the property taxes, you look at all the costs that we as Nebraskans have agreed to pay in local government subdivisions, whether it's through our community colleges, whether it's through our way we like to have public power, our NRDs, Nebraskans love lots of government. But the thing is, government is not what controls the people. People control government and people have decided that there are term limits. What I have seen in my short eight years here is that we had a tax modernization committee, we had professionals come in, we

Floor Debate
April 03, 2018

had consultants, but with the new group that came in and two large major groups, preference is to make it your own, wipe the slate clean, start from the get go. [LB947]

PRESIDENT FOLEY: One minute. [LB947]

SENATOR BRASCH: I don't believe we do reduce taxes by raising taxes. When you're increasing sales taxes, you're taking more money out of strained pockets who are making less money. That's why we're in the situation we're in today. I don't believe that we tax services. Services are based on labor, on income. They pay income tax. So you're going to pay a double income tax. I believe that LB947 is slow and gradual. If we would have done this ten years ago we would have that 20 percent reduction and a better three-legged stool. In this short time, in this short economy, I'm urging my colleagues support LB947 and the amendment, AM2542. Thank you, colleagues. [LB947]

PRESIDENT FOLEY: Thank you, Senator Brasch. Senator Friesen. Is Senator Friesen on the floor? We'll move to Senator Erdman. It's your third opportunity, Senator Erdman. [LB947]

SENATOR ERDMAN: Thank you, Lieutenant Governor. I listened to Senator Brasch's comments. Senator, let me share with you something that I discovered as a county commissioner about 15 years ago. Had we had a different form of valuing ag land for taxation purposes, the income approach, we wouldn't be talking about the disparity that ag land pays in property tax. So over that period of time since we switched from income back to market, and the market went up and there are many reasons why people buy ag land. Some are to farm, but not all. It's a great hedge against inflation and other reasons. Had we valued ag land as other states do...our bordering states, we wouldn't be having this discussion about the disparity that agriculture is paying for education. So there's a lot of things that go into this equation about how to fix the tax problem. And had we changed that valuation method we would have a lot easier time dealing with what we're dealing with today. And I noticed your comments, heard your comments about merging counties. I understand that. So if you want to show us how to do that, why don't you merge Omaha and Douglas County and let us know how that works and then the rest of us will follow suit. You see, you merge these small counties, you can't eliminate the roads. You can't eliminate those things they must take care of out there, so you eliminated two people at the courthouse, so maybe there's a small savings there. But I would contend that the counties aren't the problem, because you see the counties are doing a fair job of managing their budget according to what their revenue is. So that's not where the problem lies. The problem lies, as Senator Krist alluded to, he talked about the TEEOSA formula and when that was put in place, 20 percent of the income tax from your district was to stay there to fund the school. But the next Legislature or the one after that in their infinite wisdom decided that 2 percent was a far better number and so that's where they arrived at. So they never even allowed the TEEOSA formula to

Floor Debate
April 03, 2018

be implemented in its full intent and here we are today 30 years later still talking about it. I said it earlier, I'll say it again just for the record, we will never, we have never done anything in this body to make a difference about anything unless we're forced to. And unless the second house, the people of the state, stand up and say, enough is enough. I paid enough property tax. This is enough. Sign the petition, force this body to make a decision. I had met with some of the people from the Governor's Office early on and I said, look, why don't we do this? Why don't we negotiate a deal, a settlement and we'll do 15 percent property tax relief this year and 15 percent next year. It would be a easier bite for you to swallow. Didn't go over so well. Obviously, some of you have figured out I don't play well with others. I haven't figured out how to trade votes. I haven't figured out how to do the comprise thing like some have. Maybe that's a skill you acquire, maybe I'll never get it. [LB947]

PRESIDENT FOLEY: One minute. [LB947]

SENATOR ERDMAN: So this is my third time to speak on this bracket motion. A wise person once told me, even a king cobra doesn't bite something that's already dead. So maybe that's what I did with this bracket. Maybe this bill was dead and I didn't know it, but I couldn't sit here and listen to the rhetoric about what LB947 was going to do for somebody at some point in time in the future when it didn't mean anything. And I couldn't go back to the 47th District and say, I voted for that. That would never set well there. Those people are smarter than that. Thank you. [LB947]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Walz. [LB947]

SENATOR WALZ: Thank you, Mr. President. I stand in strong opposition to LB947. This bill prioritizes top corporate income tax rates. It drives down the Cash Reserve to a new dangerously low level, and it will not change the underlying causes of property tax. This proposal also assumes revenue growth in the next budget cycle of about 6.4 percent, knowing full well that the past few years have been significantly lower. This bill is just irresponsible. And I'm going to put it real simple, budget 101. This is like my household budget. The household bills that exceed our income and instead of going out to find more income, I tell my husband, quit your job. I'm sure the kids...we can cut back on food next year. It's irresponsible. The tax experiment in Kansas, Oklahoma, and other states illustrate that LB947 is unlikely to even come close to paying for itself with hopes of increased economic activity. So let's talk a little bit about Oklahoma's experiment for a minute. In 2010, Oklahoma Governor Mary Fallin and her conservative allies weren't happy with the new budget they had inherited. Fallin believed that cutting taxes on wealthy individuals and corporations would be the key to growing their economy in their state. So when Oklahoma's budget went down due to global oil prices and the state was faced with revenue shortfalls, the Governor did something--that I'm not quite sure why--but decided to cut

Floor Debate
April 03, 2018

taxes even more, implementing a \$147 million tax cut for high income earners. The results? Between 2008 and 2015 Oklahoma slashed its per student education by 23 percent, more than any other state in the country, resulting in a four-day week school schedule. The state's criminal justice and healthcare systems were also plagued by cuts and infrastructure crumbled across the state. I bet that attracts a lot of new people to Oklahoma. Again, LB947 is irresponsible and highly unlikely to pay for itself. As we all know, Nebraska has experienced consecutive years of budget gaps, gaps that have resulted in budget cuts to higher education, Health and Human Services, and other vital resources that Nebraskans need. Our state currently faces major challenges with Corrections and high property taxes, and we want to cut revenue. This is reckless and irresponsible. It will create more problems and more cuts to education, infrastructure, and services that attract people to our state. Again, I am opposed to LB947. Thank you. [LB947]

PRESIDENT FOLEY: Thank you, Senator Walz. (Visitors introduced.) Senator Bostelman. [LB947]

SENATOR BOSTELMAN: Thank you, Mr. President. Good morning, Nebraska. Good morning, students. We're glad you're here today. Glad to see you here. I'm interested as we continue to debate LB947 discussions that are made, things that we're talking about and dividing the question as well, and some things there...some interesting things. I want to go back and talk about property...sorry, it's going to be property tax again and how we do that. That's near and dear to my heart and my district for several reasons. Just that we cannot continue to sustain what we're doing in the ag economy on our farms with the taxes as they are now. And as the bill, LB947, is written right now, I don't believe it gives us that opportunity to help our farmers at all in that discussion. For instance, there's an individual in my district who actually farmed in Lancaster County, a little over 500 acres of ground that he farmed. His liability, tax liability, is \$100,000 a year. He now lives in Missouri where he bought 835...850 acres of bottom ground, flat ground, and much easier to farm than what he had here. And he's paying \$1,200...\$1,200 a year in taxes on 835 acre, 850 acres. We have an issue, we have a problem here in Nebraska. I am hearing from individuals in my district who have two jobs. I spoke about this last time as well on the mike. An individual sent me an e-mail and I read it, it says: Thanks very much. I'm sending an e-mail today talking about my property taxes. I went out and worked the farm this morning and, oh, by the way, it's about lunchtime or whatever time it was, and I'm headed to town because I need to go to my second job because I have to earn an income in order to pay for my farming operation because the farm doesn't do it on its own. I hear from schools, from superintendents, principals of schools about tax issues. And I agree with them 100 percent is how do we bring more dollars to our unequalized schools in my district? We have landlocked schools who are high in their levies and that because they're landlocked. We have another school district that has an exploding population, the largest, the largest elementary school in the state of Nebraska. And they are hurting. They are maxed out on their levies, I believe. They're doing everything they can to keep their costs down, to do the things that are right for the students who

Floor Debate
April 03, 2018

are there, for the community there, but it hurts significantly. And we can't continue to ask them or expect them to continue to do that as far as our ag land and our property owners in town, too, have them continue to have to pay what they have to pay in property taxes. We as a body need to find a way to immediately make a significant difference in how we, I think, in how we fund our schools, what that might look like. I think there's a couple of bills, LB1103 is one of them that looks specifically at that, how that might work. We have LB1084 that has another look at that. I am hearing from farmers, one farm group now once supported and now says, did not support LB947 but now they support it because they think that's the only thing that they can get. Really? Now is the time when we need to stand up and fight. Now is the time that your members are telling me, don't vote for LB947. I hear from people in town the same thing. We need meaningful property tax relief. And that's something I'm working on, working on right now. Hopefully we can find something. Where can we find the money to do that? Well, Senator Briese has talked about... [LB947 LB1084 LB1103]

PRESIDENT FOLEY: One minute. [LB947]

SENATOR BOSTELMAN: ...several opportunities there with taxes or other things. I have another one, exemptions. We have a billion dollars, a billion dollars with a "b" of exemptions, what I see as taxes that we for one reason or another have forgiven as a body. I spoke on this before. A billion dollars. Can we not find a couple hundred million over a couple years to help us with our rural schools and then to begin buying down our equalized school districts to have opportunity for everybody to fund schools as we are responsible to do according to the Constitution of the state of Nebraska? That's my concern. That's my fight or my discussion, if you will, on where we're at right now with property taxes. Now is not the time to quit. Now is the time to sit down and talk about how we can make a difference, where we're going to make a difference, and make that happen this session. Thank you, Mr. President. [LB947]

PRESIDENT FOLEY: Thank you, Senator Bostelman. Items for the record, please. [LB947]

CLERK: Mr. President, Senator Walz, an amendment to be printed to LB998. Enrollment and Review report LB729 and LB1040 to Select File. And, Mr. President, bills read on Final Reading this morning were presented to the Governor at 11:18 (Re LB946, LB945, LB944, and LB950. (Legislative Journal pages 1366-1368.) [LB998 LB729 LB1040 LB946 LB945 LB944 LB950]

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

PRESIDENT FOLEY: Members, you've heard the motion to recess till 1:30. Those in favor say aye. Those opposed say nay. We are in recess.

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

Floor Debate
April 03, 2018

RECESS

PRESIDENT FOLEY PRESIDING

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

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

PRESIDENT FOLEY: Thank you, Mr. Clerk. Do you have any items for the record?

CLERK: I have nothing at this time, Mr. President.

PRESIDENT FOLEY: Thank you, Mr. Clerk. (Visitors introduced.) We're going to pick up on the debate where we left off. Senator McCollister, you're recognized. [LB947]

SENATOR MCCOLLISTER: Thank you, Mr. Lieutenant Governor. Good afternoon, colleagues. I rise to speak against LB947. I think passing LB947 is like dividing, it's like driving on a treacherous mountain road without any guardrails. The bill reduces our rainy day fund to dangerous levels. And I think there is no room if we were to do that for unforeseen events. It's just too dangerous to reduce the rainy day fund to those levels. What needs to occur is we need to pass the internet sales tax. We also need to spread our sales tax to more services. I do, however, do not favor raising the sales tax rates. I think that that is not the proper way to go. Senators Groene and Friesen and Senator Briese talk about TEEOSA, and they all have good bills that we should cut and paste into something that is far better than LB947. I do believe their claims about LB947 threatening our priorities in this body are correct. It threatens education and it threatens some of the HHS priorities that we have. So thank you, Mr. President. I would hope my colleagues vote red on LB947. [LB947]

PRESIDENT FOLEY: Thank you, Senator McCollister. Senator Smith. [LB947]

SENATOR SMITH: Thank you, Mr. President. And good afternoon, colleagues. I intentionally did not speak much this morning. I wanted to let people run and have their say and express themselves. But I think I need to bring us back to reality. Senator McCollister, you said that this is a treacherous road, no guardrails. There is but one road between here and there where we need to be, and it's the bill before us, it's LB947. There is a lot of discussion about other options. Colleagues, there are no other options. You want to talk about LB1084, LB1084 is in the

Floor Debate
April 03, 2018

Revenue Committee. It did not have the votes to come out the front door, and if it had the votes to come out the back door we would have it on the floor today. I do not believe there were enough votes to pull it. LB1084 is harmful to small businesses. It increases the tobacco tax on some of the individuals that can least afford an increase in taxes. Whether it's a habit you like or not, it's harmful to a large segment of our population that, quite frankly, should not be overtaxed for the benefit of someone else. LB1084 impacts S corporations, capital gains. It's a jobs killer, it's a business killer. It does not help our business environment. It increases sales taxes and it removes exemptions on certain businesses that's harmful to some of our small businesses. LB1084 is not before us. Colleagues, it will not be before us. So to compare that as an option, that's not reality. LB829 is not before us, that too is in committee. It had lesser of a chance at coming out of committee than LB1084. I don't mean to be harsh, but we need a dose of reality. LB947 is before us and we need to look at that bill and we need to discuss that bill. Those that want property tax relief, LB947 is the bill that's before us. For those that want to show a state image of unity that's attractive to outside investment, that's attractive to businesses in our state to expand and to stay here, LB947 is the option, is the bill that's before us. And for those that want a cliff effect, a cliff effect that would come as a result of the ballot initiative, LB947 is the option that's before us. I'm not going to speak badly of Senator Erdman. I believe that we have a...we are of the same purpose, different means. The ballot initiative will absolutely be harmful, and if we do not advance this type of piece of legislation this year, I believe that that ballot initiative becomes a greater reality than it is today. The ballot initiative will leave a significant \$1.1 billion hole in our budget. You want to talk about services being cut? Education being cut? That's the reality if the ballot initiative is the option. And cuts are not going to be enough. There will necessarily be tax increases. Again, harmful to businesses. Harmful to our families. So let's think about this. [LB947 LB1084 LB829]

PRESIDENT FOLEY: One minute. [LB947]

SENATOR SMITH: The reality is LB947 is before us. I ask that you vote red on the bracket motion. Let's continue this discussion, let's work through our differences if we can. But we have to do this in a responsible manner. We have to pay for this. LB947 is a responsible approach to property tax relief and sending the right signals to our business environment, to our business culture, that we want to expand our economy. Thank you, Mr. President. [LB947]

PRESIDENT FOLEY: Thank you, Senator Smith. Senator Brasch. [LB947]

SENATOR BRASCH: Thank you, Mr. President. Thank you, colleagues. I will yield the remainder of my time to Senator Smith. [LB947]

PRESIDENT FOLEY: Thank you, Senator Brasch. Senator Smith, 4:30. [LB947]

Floor Debate
April 03, 2018

SENATOR SMITH: Thank you, Mr. President. And I probably won't take that entire time, but I did want to continue on. There were some comments that were made earlier, and I just want to set some things straight. I have been a strong business advocate in my eight years here in the Legislature. I believe in a strong state economy, whether it's ag or non-ag, small business or large business. We need to do the very best we can to promote our state and to compete in our region. I'm proud of my work with the chambers of commerce. I have not agreed with the chambers of commerce on everything, but I will tell you, my business is a member of multiple chambers of commerce. And they do a pretty darn good job of representing my interests as a business person. And I'm proud of my relationship and my work with the chambers of commerce. I'm thankful that they are here in our state and they support many of the issues that are important to business. And I'm also very proud of my work with the ag groups. My time on Transportation and Telecommunications, working with the Cattlemen, working with the Farm Bureau to try to find a path forward, it's been a great privilege working with the ag groups as well. I don't take my orders from anyone. And anyone that has been here with me for seven years, eight years, Senator Schumacher and Senator Harr and Senator Brasch, I bet none of those would say I'm someone's puppet. I'm no one's puppet. I'm a conservative, and I believe in supporting the values of a strong business environment. And that's why I'm pushing for LB947. I've never stood here and talked about my personal gain or my personal business' gain when I've advocated for any piece of legislation. I've taken on the responsibility of being a state senator, thinking about what's good for the state of Nebraska. Folks, if we rip apart the ag and non-ag business interests in the state, that's going to be bad for the image of this state for investment. We need to come together. We're not all going to get what we want, but LB947 is a path that's before us. I hope we unite, I hope we move forward. Thank you, Mr. President. [LB947]

PRESIDENT FOLEY: Thank you, Senator Smith. Senator Briese. [LB947]

SENATOR BRIESE: Thank you, Mr. President. And good afternoon, colleagues. I appreciate Senator Smith's comments on the need to grow our state, do what we can to foster business, development, and growth. I, too, share those concerns. We've heard a lot of great discussion today and we've heard suggestions earlier and maybe last week that my approach here is a tax shift, a tax increase. But if we're serious about property tax relief, we have to ask ourselves, how are you going to get there? And the only way to generate immediate and substantial property tax relief is to raise new revenue or to gut K-12 education. And folks, we're not going to gut K-12 education. We have to raise new revenue. What I'm talking about is raising new revenue to be used to offset property taxes. That isn't a tax increase, that's injecting new revenue to create more fairness and balance in our tax structure. That's doing what Nebraskans want us to do. And someone a few days ago suggested, and maybe just a little bit ago, suggested that raising sales taxes will inhibit economic growth in our state, it will be harmful to small businesses. And I take issue with that. A key consideration of folks wanting to move into our state or folks considering whether to leave our state is housing costs. We need to do what we can to make housing more

Floor Debate
April 03, 2018

affordable in this state. And having the sixth to seventh highest property taxes on residential property in the nation is not conducive to affordable housing. And a \$25 rebate is not going to help a whole lot there. And there are some concerns expressed about the tobacco tax, tobacco tax increase. Folks, we have approximately the 40th highest tobacco tax in the country. Our property taxpayers wish they had the 40th highest property taxes in the country. They certainly don't. It's about fairness and balance and that's one aspect of yielding fairness and balance, is raising taxes that are out of whack in a that way to be used to generate property tax relief. And colleagues, these are tough decisions. We're talking about raising new revenue, they're going to be tough decisions. But we were elected to make the tough decisions and this is our opportunity to do so. But we'll talk about new revenue another day. For now we have to ask ourselves is LB947 doing what Nebraskans sent us here to do? And I look forward to more discussion on this. Thank you, Mr. President. [LB947]

PRESIDENT FOLEY: Senator Krist, you're recognized. This will be your third opportunity, Senator. [LB947]

SENATOR KRIST: Thank you, Mr. President, sorry for the delay. Good afternoon, Nebraska. I guess my comments, again, will reflect this morning's comments. I don't believe the bracket motion is the right motion at this time, and I've talked to Senator Erdman about it. I think voting for the bracket motion is not good for a lot of you who are trying to get reelected because you will have told your constituents that you wanted to kill this bill. And I think it's, again, the meddling. Call me conspiracy theorist, but I think that's a position that you're being put in. Instead, I think the correct motion on this bill might very well be to send it back to committee because that's where it belongs. Senator Smith has on several occasions, and including just recently on the mike, said that this is what is before us, this is what they've been asking for, this is the only option, this is what it is this year and we cannot reject this. Those words I'm putting into the dialogue. I'm not sure he said the last sentence. But in essence, I'm paraphrasing. This is not the only option that's available to us, it shouldn't be the only option that's available to us. Incrementally we've been making no changes over the last 10 years that I've been here in moving ourselves forward. And if the only thing that's before us right now, and if the taxpayers around Nebraska want reform, true reform, and to keep this state out of sliding into Kansas, don't make us take another \$34, \$35, or \$50 million out of your savings account. This is lunacy. No matter what we're trying to do here, if we're taking more money out of your savings account and something happens in the next couple of years, akin to what happened in 2009 through 2011, what are we going to do? What are we going to do? We can't borrow money. The state constitution doesn't allow us to even ask daddy Joe Ricketts to write a million dollar check. We can't do that. The only way we can refresh the savings account is to take money that we have coming in from the tax base and put it back into our savings account for a rainy day. That's the reality. So if this is the only option, then let's look at the next few years and do something about tax reform in total, and let's not have a knee-jerk reaction that jeopardizes this state's future by

Floor Debate
April 03, 2018

doing something idiotic. Any one of these options, any one of these basic mechanisms is not bad. But funding it at a time when we can't fund it and taking money out of our savings account, bad idea. Really bad idea. And if we're afraid that a referendum that's going to go on a ballot is going to tell us what to do, it's not going to tell us what to do. This isn't Prop 13, this isn't California. They'll tell us to make some changes, or tell you to make changes in the next few years, it will come back in here and it will have to have proper debate. It will force this Legislature to take the action. And I'm not even proposing that the referendum is something that I can sign onto because, again, there is a billion dollars worth of questions just in the referendum itself. So here is the rock, here is the hard place. And here is where we stand. But the answer is not depleting our rainy day fund, our savings account any further than where it is right now. [LB947]

PRESIDENT FOLEY: One minute. [LB947]

SENATOR KRIST: It just makes no sense. I'm sure someone will stand up here and say, as Senator Kuehn did this morning, we can have this discussion and we need to have this discussion and we need to try to fix this and there is an unlimited amount of time to do that. But if that's the case, then let's start making changes. Substantive amendment changes to this bill, because with that bracket motion up there we're not making substantive changes. Let's amend in Senator Briese's or Senator Friesen's objectives and let's move forward and try to scrap what we have and rebuild it. Thank you, Mr. President. [LB947]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Groene. [LB947]

SENATOR GROENE: Thank you, Mr. President. I stand in support of AM2542. I had some input into the changes, that is why I voted it out of committee. We agreed in committee exec to cut the Job Training Cash Fund from \$10 million to \$5 million. There was no practical reason behind \$10 million, it was just politics, \$5 million, as Senator Kuehn said, probably doesn't belong in there either. But that's how you compromise and get bills out of committee. I also played a part in stepping in the corporate income tax over five years instead of immediately. I think everybody should have to wait a little bit so everybody stays on the team as the property taxes are gradually lowered with credits. The corporate world should slowly but surely step their...from 7.81 down to 6.84 to match the personal income top rate, which makes sense. Small business don't have to make that decision how to organize themselves if the tax rates are the same between different types of corporations. Folks, every single property income and sales tax that we collect is spent in this state. We are big spenders. We are a lazy society, we expect government to do a lot for us in this state: educate our children, don't put a lot of effort in your cost of your higher education, the taxpayers should lower your tuition. That's who we are in this state. We spend a lot of tax dollars, we confiscate a lot of tax dollars. At least if we do something, let's do it a one-to-one. Let's do one dollar in increase taxes to one dollar property

Floor Debate
April 03, 2018

taxes. I don't see that on the floor. I don't see that in any of the bills introduced. What I see is raising a heck of a lot of taxes, giving about \$200 million to property taxes, and about \$300 million in additional spending just so we can get the education establishment on board. I will not support that. No way, never, ever. I had LB640 on the floor, it fixes what Senator Kuehn said about the TEEOSA formula. It fixes it, folks. I've studied that thing upside down ways and it gradually steps it in using the Property Tax Credit Fund. We talked of worldly things, we stand up and espouse how great this body is and how we should be wise. The reason I can't get LB640 passed is three business managers at three large school districts called some senators and said we can't...we don't want to lose taxing authority. And those senators jumped. People of Nebraska, that's how politics are done here. That's how it's done here. Government employees working at a school district calls their senator and says we don't want to give up property tax authority. Because see, we got the taxpayer around the neck and we got him pinned against the courthouse. And as long as we have a high tax levy, that property taxpayer has to pay. Because then we take him to the steps of the courthouse and sell his property, his house and his farm land because we can get that property tax. Because some government employees at a public school want life easy and they want the tax dollars flowing. That's why I can't get LB640 enough votes for cloture. Couple of lobbyists working for those big school districts call you out and a few of you jump. So how do we get things done in this state and how have we gotten it done? We throw more money at it. We're at the point where we've become the second highest taxed people in the nation. We compromise, and how we do it? We throw more money, we throw more money. People are out working. [LB947 LB640]

PRESIDENT FOLEY: One minute. [LB947]

SENATOR GROENE: Average people are working, cutting hair at a barber shop, and we're going to raise the sales tax on their income. That's how we're going to do. And we're going to give it to a very highly-paid, very well-compensated individuals in the education establishment with the greatest retirement out there and the best healthcare, because they need more money. We will never get tax relief unless we stand up for the individual person who we represent and quit listening to the bureaucracies of government. It's the only way we're going to get there. I stand in support of AM2542 because at least it doesn't raise my taxes. Thank you. [LB947]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Linehan. [LB947]

SENATOR LINEHAN: Thank you, Mr. President. I, too, rise in support of AM2542 and LB947. I am concerned, and Senator Groene just explained this very well, that we're talking about this threatens our priorities. My priority, from the day I got here, was to cut taxes. This cuts taxes. We can't...other plans that have been talked about, if we're shifting taxes, and though there is room for that discussion, we are shifting taxes which ends up in more spending, I am not willing to

Floor Debate
April 03, 2018

support. We can't get to where we need to get, which is lower taxes for all Nebraskans, and increase spending. Those two won't work together. Again, my priority, one of the main reasons I run...ran, excuse me, was so we could lower taxes. There are those that say this isn't enough. Well, it's better than nothing. It's \$25, maybe it's not a lot. But again, it's better than it going the opposite way: up. We're not going to fix our tax burden until we do do something about school finance. I realize that. But we didn't get a bill on the floor this year to talk about that. That's a very difficult and hard conversation, and we're going to have to have the education...at least some in education with us on the way to figure out how we can reduce property taxes without raising all other taxes and still educate our kids. Again, I support LB947. I appreciate very much how hard Senator Smith has worked on this. And again, if our priority is cutting taxes, this is the right bill, and it moves it in the right direction. This bill doesn't keep us from coming back next year and doing more. It just simply points the arrow in the right direction. With that, I would yield the rest of my time to Senator Smith. [LB947]

PRESIDENT FOLEY: Thank you, Senator Linehan. Senator Smith, 2:30. [LB947]

SENATOR SMITH: Thank you, Mr. President. And thank you, Senator Linehan, for yielding me time. And Senator Groene, thank you for your remarks on the floor as well and for your work in the Revenue Committee. Your participation in the process brought us to AM2542, and I appreciate your constructed efforts. And I'm happy to keep talking with others as well working to find more support for a constructive tax package. But within the framework of first achieving broad support, we have to achieve broad support in this Legislature. We cannot continue taxing future revenues beyond our ability to pay for it. So I can't raise taxes. We don't want to raise taxes, that's not the right solution to pay for this, so we cannot overtax our future revenues on this package either. So it has to be reasonable. And as I mentioned, we cannot raise other taxes to pay for this. That's the framework. But there's lots of avenues inside of that framework. And so I appreciate Senator Groene's efforts and others of you that want to work to that end. We must move our state forward competitively. We must reduce the tax burden and we must do it responsibly. And we must promote a positive image for our state. Uniting ag and non-ag alike. [LB947]

PRESIDENT FOLEY: One minute. [LB947]

SENATOR SMITH: I ask that you vote red on the bracket motion and that we continue our discussion on the amendment that's before us and the underlying bill. LB947, seven days remaining, it's the revenue package that's before us. Without this action, we will end up empty handed this session and we will be looking at a ballot initiative that...you want to talk about Kansas. Kansas is nothing compared to what the ballot initiative will do to Nebraska. Thank you, Mr. President. [LB947]

Floor Debate
April 03, 2018

PRESIDENT FOLEY: Thank you, Senator Smith. Senator Albrecht. [LB947]

SENATOR ALBRECHT: Thank you, President Foley. Colleagues, I rise in opposition to the bracket and in support of AM2542 and LB947. Last year, I thought we had a pretty good tax reform bill that was put together. It was very disheartening to me when our own farm community folks decided it wasn't good enough. And those same words came out of my mouth when I first heard this proposal, that it wasn't enough. But saying it's not enough and not having a better plan is not going to move us forward. It's very evident to me that we have to work in small incremental levels to get to where we want to go. As Senator Linehan alluded to, that, you know, there is always next year. We should be down here every single year trying to figure out for the Nebraska state constituency that we have how can we make things better. If this is what came out of the Revenue, and we had three senators that did not vote it out, I would certainly like to hear from them why they didn't jump on board with this best of best plans because, you know, with all due respect to Senator Erdman, wanting that petition drive, that's all well and good, but you're forcing the hand of 33 Senators to make changes at \$1.6 billion. That can't happen overnight. We didn't get here with this problem overnight. So I would like to challenge everyone in the room, and it kind of warms my heart that we're all sitting here listening. This is very important for the state of Nebraska to get something taken care of. And to know that all these parties came to the table, the Farm Bureau, the state chamber, the education side. I mean, if we go out and try to muster up a petition drive that would cost everyone millions of dollars to make happen and then force us to do something that we're going to make a lot of people unhappy. It was...you know, I had heartburn when I saw that \$5 million. But guess what? That's all I'm hearing about is work force development. Work force development, if we need to help our businesses grow in the state of Nebraska and we need money set aside, that's all great. But if we don't have the money to set it aside, we're not going to be able to. But we'll have to make that decision when we come to that crossroad. But it's part of the tax reform bill today. I just really would wish that people who want to just poo-poo this whole deal would understand that this is what the Revenue Committee, the best that they could do and what they can come to as a compromise. It's hard for all of us to swallow. We might not like certain parts of it. We might think somebody else should have to pay more or less, but we didn't sit through those committee hearings, we didn't understand all that was brought to the table. So if this is the best that we can do, I am very willing to wrap my arms around this, because this is something that our state needs. Again, Senator Schumacher, I know you're just comfortable in your chair, but I would love to yield the rest of my time to you and just ask you where were you at on this and why did you choose not to vote it out of committee? If you would like, you can have the rest of my time. [LB947]

PRESIDENT FOLEY: Thank you, Senator Albrecht. Senator Schumacher, if you would like, it's 1:30. [LB947]

Floor Debate
April 03, 2018

SENATOR SCHUMACHER: Thank you, Senator Albrecht. I've been very quietly sitting here listening to the debate, seeing how things probably will operate next year, and really feeling that I've been a really poor professor because I'm waiting for somebody to read this abomination. Read it. I'm not going to give you any clues right now as to all the things that are wrong with it. But it's packed full of it. And if this gets, and I don't think it will, but if it does get to Select File or Final Reading we may discuss some of those things, if you haven't figured them out yet. But read it, it's there. There are big, big, huge problems with this bill. And I'm not even getting to the point where it's absolutely tearing all the extra money, if we ever had any, out of the system that we're going to have to spend on prisons, on old people, on education, on gosh knows what's going to hit you in the face. This thing is fantasy land. But I'm going to watch and I'm going to listen and see how you reason through it. Thank you. [LB947]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Friesen. [LB947]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. I'm a member of two different chambers of commerce. I'm a small businessman. I happen to be involved in ag production. We're still small business and we're still the number one business in the state. So when you look at what's happened in the past 10 to 12 years, the run-up that we've seen in production agriculture will probably never be seen again in my lifetime. There were some really good times to be had by all, including the state, carried us through a recession that everyone else had to suffer through. And so you watched our spending and as our state go up 6, 6.5 percent, we were spending money like drunken sailors. So some of the things I look at as balanced in that, too, but I'm also looking at what happened to our number one business during that time. Everyone was reluctant to address TEEOSA, they just let it run. And it wasn't working the way it should. Everybody knew it, but we just let it go. So today we have 72 percent or so of our schools that receive no equalization aid. Zero. And yet, the state, I feel, should have some obligation. So how do we narrow that gap between those schools who are receiving none to those that receive over 50-some percent of their funding from the state? We collect \$4-plus billion in property taxes from all entities. It's going up at a rate of roughly 3.5 percent or more a year. And I'm not talking about valuations, I'm talking about the taxes you pay--\$2.697 billion of that goes to education of some sort, whether it's community colleges, ESUs, or K-12. We have not funded TEEOSA in the past the way we should have. Every time the state runs short of money, we tweak it. But we're unwilling to address the huge tax shift that took place. And as a small businessman, I don't recall anybody standing up when this tax shift was taking place and trying to correct that. They were just more than happy to let it happen. It didn't happen overnight, so I'm not expecting an overnight fix. I think we just need to pick a path to where we at least can see some light in the future for some property tax relief. And when you see property taxes collected going up at 3.5 to 4 percent, and I'm going to get a 2 percent credit, it doesn't add up to substantial and up front. I'm still willing to work with anybody. I'll work with this bill, I'll work with any bill that comes in front of us. But to say that we have the best out in front of us through the Revenue Committee is

Floor Debate
April 03, 2018

a little bit of an understatement. We don't let things out. And that's what happened my first three years here, is all the bills dealing with property taxes were stuck in committees. They were stuck in Education, stuck everywhere. So to get something to the floor finally, I applaud Senator Smith for bringing ideas. I applaud him for bringing LB461 last year. It wasn't what I intended it to be when we were finished with it, but again, I'm willing to work with it. And the same goes for this bill. I'm willing to work to try to fix it, but in its current form... [LB947 LB461]

PRESIDENT FOLEY: One minute. [LB947]

SENATOR FRIESEN: ...I don't support it. It does too little, too late, and I think there's things that we can do that address that situation. But we have to be willing as a body to look at those issues. And so far we have been unwilling to do that. Thank you, Mr. Lieutenant Governor. [LB947]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Harr. [LB947]

SENATOR HARR: Thank you, Mr. President. You know, it's funny how things can change in a year. And I was looking back at some of the notes from last year when our Governor was a fiscal conservative. And I'm looking at his veto statement of LB327E, which was the budget. And he came back with line item vetoes. And he says, in April, which is a year ago this month, "The Nebraska Economic Forecast Advisory Board again revised downward the projection of tax receipts for the current fiscal year and the upcoming budget biennium by \$55 million." Now here is the key in these next couple sentences. The first one just kind of set it up. But he says, goes on to state, "You have responded by lowering the statutory requirement to maintain a minimum reserve in the General Fund by 3 percent downward to 2.5 percent. This is an artificial solution in response to lower tax receipt that allows approximately \$40 million in additional spending when prudent fiscal management calls for higher reserves and less spending from the General Fund. Not Lowering reserves and spending more." Here is what's crazy, folks. Seven months after he wrote this letter, you know what the guy did? Introduced a budget with 2.5 percent. In an article in the Omaha World-Herald from May 16, 2017, by the honorable Paul Hammel, who is not with us right now, he stated that same, going from 3 percent downward to 2.5 percent, was using budget gimmicks. And here he is using the same budget gimmick. His budget that he proposed to this Legislature spent more money than what we just passed earlier today. How is that spending less? We're spending less. Lowering...he says we need a higher reserve. He, with this bill, will lower our reserve. A year ago we couldn't go below \$300 million. This bill puts it at approximately \$256 million. How can you one year say one thing and the next year say another? Oh, because he wants this. He didn't want that. So it's okay if the Governor says it's okay. Unfortunately, the laws of finance do not revolve around the Governor. Folks, we don't have the money for this. In Sunday's Omaha World-Herald, he did an editorial. He said, we can afford this

Floor Debate
April 03, 2018

based on 6 percent growth. Guess what the Economic Forecasting Board said next year's growth was going to be: 4.9 percent. In the first year we're going to have to cut more over...we're going to have to find another \$100 million to cut. Again, sometimes I think I'm the only conservative in this building. A fiscal conservative that says I want this state to be better tomorrow than it is today. Over the last eight years since I've been here, I have seen our cash reserve shrink. [LB947 LB327]

PRESIDENT FOLEY: One minute. [LB947]

SENATOR HARR: This is supposed to be a savings account, the Cash Reserve, and we're treating it like a checking account. And these are good times, folks. Not great times. We should be building up our Cash Reserve and we're depleting it. We can't afford the money we're spending now and he wants to cut more. Look, I'm with you. I don't want to spend more in taxes. But the way to get ourselves out of this mess is to find a way to grow the state and to use pro-growth tax policies, investing in the employees, investing in the workers. Senator Groene says \$10 million is too much, probably says \$5 million is too much. I don't know. I want to find a way to help people earn more money. Isn't that what we're here for, to make tomorrow better than today? That's why I can't at this point support this bill. This is fiscally irresponsible. We have to find \$100 million next year. Thanks. [LB947]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Linehan. [LB947]

SENATOR LINEHAN: I'll yield my time to Senator Murante. [LB947]

PRESIDENT FOLEY: Thank you, Senator Linehan. Senator Murante, 5:00 if you need it. I do not see him on the floor at the moment. Senator Bostelman. [LB947]

SENATOR BOSTELMAN: Thank you, Mr. President. Would Senator Albrecht yield to a question? [LB947]

PRESIDENT FOLEY: Senator Albrecht, would you yield, please? [LB947]

SENATOR ALBRECHT: Yes, sir. [LB947]

SENATOR BOSTELMAN: Senator Albrecht, do you have a farming operation, you and your husband have a farming operation? [LB947]

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

Floor Debate
April 03, 2018

SENATOR ALBRECHT: Yes, we do. [LB947]

SENATOR BOSTELMAN: Do you consider that a business? [LB947]

SENATOR ALBRECHT: Yes. [LB947]

SENATOR BOSTELMAN: What kind of farming operation, do you raise cattle? [LB947]

SENATOR ALBRECHT: We have a cow-calf operation, we grow corn, soybeans, alfalfa. We have a small feedlot. [LB947]

SENATOR BOSTELMAN: And you would consider yourself a small business, correct? [LB947]

SENATOR ALBRECHT: Yes. [LB947]

SENATOR BOSTELMAN: And am I...I think I read something recently on that Nebraska is the number one beef state in the United States now, is that correct? [LB947]

SENATOR ALBRECHT: I believe so. [LB947]

SEANTOR BOSTELMAN: Okay, thank you very much. Senator Briese, would you yield to a question? [LB947]

PRESIDENT FOLEY: Senator Briese, would you yield, please? [LB947]

SENATOR BRIESE: Yes. [LB947]

SENATOR BOSTELMAN: Senator Briese, do you have a farm operation? [LB947]

SENATOR BRIESE: Yes, I do. [LB947]

SENATOR BOSTELMAN: And do you consider yourself a businessman? [LB947]

SENATOR BRIESE: Yes. [LB947]

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

Floor Debate
April 03, 2018

SENATOR BOSTELMAN: Do you have a small business? [LB947]

SENATOR BRIESE: Yes. [LB947]

SENATOR BOSTELMAN: What does that consist of? [LB947]

SENATOR BRIESE: I raise corn and soybeans. [LB947]

SENATOR BOSTELMAN: Okay, thank you, Senator Briese. Senator Groene, would you yield to a question? [LB947]

PRESIDENT FOLEY: Senator Groene, would you yield, please? [LB947]

SENATOR GROENE: Yes. [LB947]

SENATOR BOSTELMAN: Senator Groene, do you farm? Do you have a farming operation? [LB947]

SENATOR GROENE: No, I don't. I got a small, little herd of cattle and I rent some land out. [LB947]

SENATOR BOSTELMAN: So do you, on your cattle, is that considered a small business? [LB947]

SENATOR GROENE: Yes. [LB947]

SENATOR BOSTELMAN: Okay. Thank you, Senator Groene. [LB947]

SENATOR GROENE: I lose money every year on it. [LB947]

SENATOR BOSTELMAN: Thank you. Senator Erdman, would you yield to a question? [LB947]

PRESIDENT FOLEY: Senator Erdman, would you yield, please? [LB947]

SENATOR ERDMAN: Yes. [LB947]

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

Floor Debate
April 03, 2018

SENATOR BOSTELMAN: Senator Erdman, have you or do you currently farm or ranch? [LB947]

SENATOR ERDMAN: I used to farm a ranch, Senator. [LB947]

SENATOR BOSTELMAN: And was it a large operation or was it a small operation, a small business operation? [LB947]

SENATOR ERDMAN: We farmed about 1,500 acres at one time. [LB947]

SENATOR BOSTELMAN: And I would consider you...consider a small business, wouldn't you? [LB947]

SENATOR ERDMAN: Correct. [LB947]

SENATOR BOSTELMAN: Okay, thank you, Senator Erdman. Senator Hughes, would you yield to a question? [LB947]

PRESIDENT FOLEY: Senator Hughes, would you yield, please? [LB947]

SENATOR HUGHES: Of course. [LB947]

SENATOR BOSTELMAN: Senator Hughes, do you have a farming operation? [LB947]

SENATOR HUGHES: Yes. [LB947]

SENATOR BOSTELMAN: And do you consider yourself a small businessman or a large businessman? [LB947]

SENATOR HUGHES: Small businessperson. [LB947]

SENATOR BOSTELMAN: Okay. Thank you very much, Senator Hughes. Ladies and gentlemen, colleagues, citizens of Nebraska, what I'm talking about here is a lot of times what's overlooked is that our rural farming community, which is the number one...agriculture is number one in the state business-wise. Ours is made up of small businesses throughout the state. So as we walk about small business development, when we talk about bringing business into the state,

Floor Debate
April 03, 2018

this is what we're talking about is our small business, our farmers, our ranchers, our small communities, our rural communities. We need things in those areas to help us grow. Part of that is what we're doing with our taxes, what we're talking about right here and right now. So as we continue to debate this and talk about this, there is opportunities we have to make a difference. And one question I have to think about is when we talk about TEEOSA funding, my understanding, income tax used to come back at a 20 to 30 percent rate to the local areas and now we're at 2 percent. Why? Why isn't that 5 percent? Why isn't that 10 percent? Why is that income tax not coming back to our local areas like it was supposed to, like it was intended to do? Why is that? It needs to. That needs to be part of what we're talking about. Senator Friesen, would you yield to a question? [LB947]

PRESIDENT FOLEY: Senator Friesen, would you yield, please? [LB947]

SENATOR FRIESEN: Yes, I would. [LB947]

SENATOR BOSTELMAN: Senator Friesen, could you tell me a little bit about your bill, LB1103? [LB947 LB1103]

SENATOR FRIESEN: Well, from my perspective, we've always talked about how to fund K-12, and I always thought the state needed some responsibility, so what my bill did was fund every school at least 25 percent of their basic funding needs would come from the state. [LB947 LB1103]

SENATOR BOSTELMAN: And could...is that part...would income tax potentially be a part of that that comes back into it? [LB947 LB1103]

SENATOR FRIESEN: It could be. I mean you could...the allocated income tax at 20 percent would substantially contribute to that. It wouldn't quite reach that level yet in some districts. [LB947 LB1103]

SENATOR BOSTELMAN: So what we're talking about, we're just trying to, is what I'm trying to get at here, is trying to help our rural communities, our rural...our small school districts. [LB947 LB1103]

PRESIDENT FOLEY: One minute. [LB947]

SENATOR BOSTELMAN: Our schools across the state are getting funding directly back into our school districts, which then gives us direct property tax relief to our ag communities, to our

Floor Debate
April 03, 2018

small businesses, and to our rural communities. You know, another thing that we're not talking...thank you, Senator Friesen. Another thing that we haven't talked a lot about as well as what we need is broadband. You want us to grow? You want our schools to function? We need broadband. We need broadband expansion across the state. You want people to work from home, to run an insurance company, an engineering company, whatever, a CPA? That all can happen from home in a rural community, on a farm. One family member could be farming and one family member could have a business, and it could be located in any surrounding town. But if they don't have broadband access, then it's very difficult for us to grow our local economies, our rural economies. So as we continue to talk about this, I think income tax potentially returning to our local areas is important. I still look at exemptions as part of the answer to. [LB947 LB1103]

PRESIDENT FOLEY: Time, Senator. [LB947]

SENATOR BOSTELMAN: Thank you. [LB947]

PRESIDENT FOLEY: Thank you, Senator Bostelman. Senator Hughes. [LB947]

SENATOR HUGHES: Thank you, Mr. President. Good afternoon, colleagues. I passed out a couple of colorful sheets to you just recently. One is a pie chart that's got some nice colors on it, then the other one is a bar graph. Those are dollars that have been collected over the last 10 years, and the percentage change of tax dollars that have arrived in the state coffers for to pay for government. And if you look, it's very obvious that ag real estate has seen an explosion in the number of dollars that are coming out of that sector to pay for government. And when I say government, I mean all government, from roads to higher education, to K-12, to HHS, to prisons. Those are dollars coming out of that sector increased over the last 10 years. Agriculture is the engine that drives this state. We are 25 percent of this state's economy. And when you take those, that many dollars, away from the engine, I mean, you're starving the engine. You're killing the golden goose. You know, until we can get agriculture back on its feet, this state is going to struggle. And what is happening in the country is we talk about grow Nebraska, we want to increase our population. We are driving the population out of rural Nebraska because of the tax policies that we are encouraging. When there is no money in agriculture, we are forced to consolidate. We get bigger, we become more efficient. Each person can cover more acres and that leads to less people needed to run the equipment. There is no incentive for young people to come back. It is the large corporate farmers that are going to take over, and it's certainly at an accelerated pace today. Just the last month, in my little corner of paradise, the amount of consolidation that has gone on, the amount of older generation that is just walking away and saying, I'm not going to risk any more of my retirement, I'm quitting. All that land will be farmed, but it's not going to be farmed by young people. It's going to be farmed by the efficient operators with the big equipment that don't have a lot of labor cost. And driving the population

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

Floor Debate
April 03, 2018

from rural Nebraska is not in any of our best interest. My colleagues that are in Lincoln and Omaha may think, that's all right, they can move to the city. They're not going to move to the city. We are state senators, we have a state problem. And crippling the number one industry in our state is property taxes. That has got to stop. We need to get serious about fixing the TEEOSA formula for the larger school districts that are getting the lion's share of that. It's all right now, but at some point it becomes unsustainable. We need to take a serious look at how we fund K-12 education because that affects all of us. We all pay property tax in one form or another and that burden is falling increasingly heavily upon the ag sector. You've heard me for three years talk about property taxes... [LB947]

PRESIDENT FOLEY: One minute. [LB947]

SENATOR HUGHES: ...and how heavy that burden has become. And it is getting to the breaking point, there is no question about that. And the prospect for agriculture is not good. And there is only so much efficiency you can squeeze. You know, we still have to deal with mother nature and she holds the whole cards. You think, well, there is too much wheat, just quit growing this much wheat. Well, it doesn't work that way, because you have to pay property taxes regardless of whether you raise a crop or not. And fundamentally, that is wrong. One hundred fifty years ago when the state was formed, we needed a revenue stream. Property was the revenue stream. We didn't have commerce. Today we have commerce. We need to be taxing the things that make money. Thank you, Mr. President. [LB947]

PRESIDENT FOLEY: Thank you, Senator Hughes. Senator Linehan. [LB947]

SENATOR LINEHAN: Question. [LB947]

PRESIDENT FOLEY: The question has been called. Do I see five hands? I do. The question is, shall debate cease? Those in favor of ceasing debate vote aye; those opposed vote nay. Senator Smith. [LB947]

SENATOR SMITH: Call of the house. [LB947]

PRESIDENT FOLEY: There has been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please. [LB947]

CLERK: 30 ayes, 2 nays to place the house under call. [LB947]

Floor Debate
April 03, 2018

PRESIDENT FOLEY: The house is under call. Senators, please return to your desk and check in. The house is under call. Please return to your desks and check in. All unauthorized personnel please leave the floor, the house is under call. Senators Kolterman, Krist, Murante, please return to the floor, the house is under call. All unexcused members are now present. Senator Linehan, we can proceed with call-in votes if you would accept that. [LB947]

SENATOR LINEHAN: Yes. [LB947]

PRESIDENT FOLEY: A roll call vote has been requested. Mr. Clerk. The question before the body is whether or not to cease debate. [LB947]

CLERK: (Roll call vote taken, Legislative Journal pages 1369-1370.) 25 ayes, 7 nays, Mr. President, to cease debate. [LB947]

PRESIDENT FOLEY: Debate does cease. We're still under call. Senator Erdman, you're recognized to close on your bracket motion. [LB947]

SENATOR ERDMAN: Thank you, Lieutenant Governor Foley. Lot of debate. I listened to what Senator Smith had to say, he spent most of his time talking about why the other bills weren't any good, why they shouldn't be passed, what will happen if the petition goes forward. We had \$1.1 billion shortfall last year, we figured it out. We can do it again. So when we get ready to vote on this bracket motion, we'll see who is for property tax relief and who isn't. And I'm going to make this statement. If you vote for AM2542 and then LB947, you are not for property tax relief. Senator Smith said this is driving a wedge between urban and rural. He's totally wrong. Some of the greatest support that I have seen for what we're trying to do with the petition drive comes from the urban people. They get it. The reason we don't get property tax relief in this state has nothing to do with the urban people, has everything to do with the rural and agriculture people that can't stick together. Now, I know when you're one of them you're not supposed to say things like that. But the reason we haven't gotten property tax relief in 40 years is because of the ag groups can't stick together, can't make up their mind, can't decide what to do. When I stood up last year on May 23 and had the press conference and asked anybody to invite...I invited anyone that would help with property tax relief, to my surprise the urban people helped lead the charge. Surprised me. I appreciate it. I appreciate working with those people, they're trustworthy. When you go home to tell your people when you're running for reelection you're going to give them \$25 off on their house property tax and you tell the rural, agricultural people, Senator Albrecht, that we're going to give you a 2 percent reduction when your value went up 6, 8, 10, good luck. Good luck with that. We vote for AM2542 and LB947 today, it passes, we will be done talking being property tax relief in this state because we will have considered fixed it. If this is what you call fixed it, I don't want any part of that because this is not a fix. This is a fantasy. This is an

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

Floor Debate
April 03, 2018

illusion. And I don't care who you listen to or who you talk to, when it's all said and done and you look at the bottom line of what you're paying in property tax after this is implemented, this is too little, way too late. Please vote for the bracket motion and do the right thing and protect people in the state of Nebraska. Thank you. [LB947]

PRESIDENT FOLEY: Thank you, Senator Erdman. Members, you have heard the debate on the bracket motion. The question before the body is the adoption of the motion. A roll call vote has been requested in reverse order. Mr. Clerk. [LB947]

CLERK: (Roll call vote taken, Legislative Journal page 1370.) 9 ayes, 25 nays, Mr. President, on the motion to bracket. [LB947]

PRESIDENT FOLEY: The bracket motion is not adopted. I raise the call. [LB947]

CLERK: Mr. President, Senator Erdman would move to reconsider that vote with respect to the bracket motion. [LB947]

PRESIDENT FOLEY: Senator Erdman, you're recognized to open on your reconsideration motion. [LB947]

SENATOR ERDMAN: Thank you, Mr. Lieutenant Governor. I didn't think I'd ever get to speak again. You're a long ways from 33. I'm serious about this bill. I watched Senator Chambers for about 15 months, whatever it's been we've been here. He always says things like, "I got some things to say." And maybe that's the case with what I'm going to do here. I understand how this works, colleagues. The Governor has a large amount of influence in this body, way more than I give him credit for. I underestimated him, I shouldn't have. But he has a huge influence. We've seen that for the last two or three months when he's called you in to discuss with you what you must do and how you must support LB947. LB947, I had several questions from media people, and they would ask what do you think of the Governor's tax relief bill? And my answer would be, do you know what it is? And they'd say, well, we think it's this. Well, that's what it was yesterday. So it continued to move every time he would meet with somebody and negotiate something different, then it would be a different bill. So here we are again. This is a new version, AM2542, helps hardly anyone do anything. But he has enough of you in here convinced that it does something. I'm not sure what that is. So I would assume going forward the next people that speak will talk about the fallacies of LB829 or LB1103 or LB640, or maybe Senator Briesse's LB1084. But we never have a discussion straight up on this floor about what things that really need to be talked about. We only talk about those things that are allowable according to the Governor's strategy and plan. So we're going to reconsider the vote that we just took. We'll talk a little more about some of the things that Senator Schumacher pointed out. This is an amazing

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

Floor Debate
April 03, 2018

bill, 1 percent property tax reduction for you residential people--1 percent. Wow. Can't hardly wait until you spend that. You put \$50 with that and you can go to McDonald's. This is crazy. For the life of me, I can't understand how this bill even seen the light of day, except for the influence of the Governor. So as I look at the information that I've gathered about how much incomes have risen over the last 10, 12 years, in the state of Nebraska the income has gone up about 8 or 9 percent, property taxes going up about 45 percent. Those are about the same. So what's happening is people are going to have to pay their property tax with about one-fifth of the increase in revenue that they should be getting to pay it. We can't keep doing this forever. Senator Bostelman pointed out his friend that moved to Missouri. Senator Bostelman, you're not the only one that knows a farmer that moved to Missouri. We sold some land for a farmer in Alliance, he had several pivots, had about a \$500,000 house there in Alliance. Bought equal land, equal-value house in Missouri, his property tax in Alliance was almost \$100 an acre. Property tax in Missouri is \$5, property tax on his house is \$500. He's pretty happy about moving to Missouri. Had some friends bought some land, some investments in Cheyenne. Went over, just before the first year to pay their property tax. Went into the county treasurer, said we're here to pay our property tax, showed them their documents. The county treasurer brought the information out, laid it on the counter. And the lady says, that's it? That's all I owe? And the treasurer says, oh, you're from Nebraska, aren't you? That's what happens, all right? So our tax system in total is out of whack. Are we willing to talk about that? No? No, we're not. We're willing to talk about giving you \$25 back. Senator Linehan, when you're campaigning the next time and that person knocks...you knock on their door and they say, hey, thanks for giving me the \$25, I don't know how you're going to respond that. You could say, well, it's better than nothing. And they'll say, oh, yeah, I forgot. It's a joke. This LB947 is a joke. So let the discussion continue. Thank you. [LB947 LB829 LB1103 LB640 LB1084]

PRESIDENT FOLEY: Thank you, Senator Erdman. Debate is now open on the reconsideration motion. Senator Clements. [LB947]

SENATOR CLEMENTS: Thank you, Mr. President. I rise to oppose the reconsider motion. I'm supporting LB947 and AM2542. I believe LB947 is a responsible way to get some property tax relief. Is it enough? No. Not as much as I wanted either. But it is a start. It keeps the Cash Reserve above \$250 million, which we have made great efforts to keep, maintain that. The Appropriations Committee balanced the budget using moderate cuts but preserving the Cash Reserve. This gives property tax relief with moderate spending. It increases credits gradually, and I hope we can increase the credits faster if the economy does improve. LB947 is a good start we can afford. It's what we should do with the budget we have today, and I hope we can do more in the future. With that, I'd like to yield the rest of my time to Senator Smith. [LB947]

PRESIDENT FOLEY: Thank you, Senator Clements. Senator Smith, 3:40. [LB947]

Floor Debate
April 03, 2018

SENATOR SMITH: Thank you, Mr. President. And thank you, Senator Clements, for yielding me time. And colleagues, thank you for that last vote, that red vote on the bracket bill. Regardless of Senator Erdman's taunting, I appreciate your acknowledgment that you did not want to bracket the bill. And I thank you for that vote. Colleagues, I want to grow our state. We had a Q and A around here a little bit earlier about who is a small business person and what businesses they own and things like that. And I have a vested interest in the well-being of this state. I want this state to be a great place for businesses to invest and to locate and expand. I believe that the best path forward for our state is growth. I believe we have a rich heritage in this state. I may not be a native Nebraskan, but I'm a Nebraskan by choice, and I think we have the greatest work ethic in the Midwest right here in Nebraska. And I have great confidence that we can do great things in Nebraska. And we need to expand our economy, and that is truly the path forward for our state. That is truly how we're going to achieve long-term sustainable property tax relief, by expanding our economy, growing our state, putting more people into the work force. LB947 offers significant property tax relief. Tax year fiscal impact, you run this out 2030, \$600 million of new property tax relief; \$600 million on top of the Property Tax Credit Relief Fund of \$224 million. That, colleagues, is significant. That is close to what Senator Erdman is proposing with his LB829 and the ballot initiative. But we do it over time and we do it in a responsible, affordable approach. Senator Erdman has misrepresented LB947. It does not impact, it does not take away from commercial real estate property taxpayers. It leaves them alone with...leaving Property Tax Credit Relief Fund in place. The new credits do not go towards the commercial real estate, but it does not take anything away from them. Senator Erdman's alternative is dangerous. You're simply not able, you will not be able to cut enough to pay for LB829 or the ballot initiative costs. You simply are not going to be able to cut enough. You will necessarily have to raise taxes to pay for that--\$1.1 billion... [LB947 LB829]

PRESIDENT FOLEY: One minute. [LB947]

SENATOR SMITH: ...that is not the direction that our state needs to go. Again, colleagues, thank you for that last vote. Let's keep moving this forward. Let's keep the conversation on the one and the only property tax bill that's in front of us. Let's keep the conversation going. Thank you, Mr. President. Thank you, colleagues. [LB947]

PRESIDENT FOLEY: Thank you, Senator Smith. Senator Harr. [LB947]

SENATOR HARR: Thank you, Mr. President. I think there might be another property tax or two bills in front of us. Senator Groene and Senator Friesen have two bills that will affect how much we pay for education. So I think there are some alternatives out there. But that's not where I'm going with this. Folks, this is a false hope in a degree in that it's relying upon us having 6 percent growth. Next year we're projected to have 4.9 percent. President Trump is heralding the fact that

Floor Debate
April 03, 2018

we have 3 percent growth. That's half. We can't afford this. Think about it. This takes about 1, 1.5 percent of our growth every year, year in and year out. Then you take another 1, 1.5 percent TEEOSA growth. It's all gone. Or maybe we have up to 1 percent to fund everything else that Senator Schumacher likes to talk about. So what do we do? What are the alternatives? We continue to cut, continue to overcrowd our prisons, continue to underpay our rate providers so we have more nursing homes close across the state, continue to maybe provide less money for TEEOSA. Which guess what happens, you're robbing Peter to pay Paul because your property taxes are going to go up. How are we going to do this? Senator Smith is exactly right, we got to find a way to grow this state. And we got to find a way to keep our kids here, and we got to find a way to get people to move here and we have to be a welcoming state for all. So what are we doing for that? This bill doesn't address the underlying problem. We have to grow our economy and we have to figure out a way to fund our education. The largest single portion of property taxes go to education. So what are we doing to pay for education? We're 49th out of 50, congratulations, folks, in state funding to education. Overall, we're right in the middle funding overall for education because we make up for it. How? Property taxes. If we're going to be serious and have a conversation, we're not even talking about the logistics in this bill yet. The problems some of the "wordsmithing" might have, some of the unintended consequences, some of the intended consequences of preventing growth that perhaps was intended but hasn't been talked about. But we got to talk about why are our property taxes so high. And until we address that issue, all this is window dressing. I mean, literally robbing Peter to pay Paul. Using income taxes to pay and sales tax to pay your property taxes. Why wouldn't we just turn around and fund education, which is the cause of this? Why are we doing this indirect route? No one's explained that to me. I would like to hear that. Senator Albrecht, you're for this. You challenged us earlier. That's why I voted against this. I challenge you to tell me why are we doing indirectly what we should be doing directly, which is funding education? Take a stand on it. You know, today is the 50th anniversary of Martin Luther King's last speech. And in that speech he talked about the pharaohs in Egypt...or the slaves in Egypt and what the pharaohs would do... [LB947]

PRESIDENT FOLEY: One minute. [LB947]

SENATOR HARR: Thank you. He would, the pharaoh, would have the slaves fight each other. And by fighting each other, they didn't fight for their freedom. It wasn't until the slaves got together and stood up and fought together that they were able to beat the pharaoh. So let's try to find a way to fight together. Let's find a way to beat that pharaoh. Thank you. [LB947]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Friesen. [LB947]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. So don't let anybody be mistaken by my not voting on the last round, because I don't feel that we should have killed any bill that

Floor Debate
April 03, 2018

we get to talk about on how we may fix property taxes. I'm willing to discuss it. I'm willing to make it better. But if it stays worded the same, I'll be opposed to it in the end. When you look at what's happened over the past few years, we look at our whole tax policy in a big picture. And I look at the Advantage Act, and since I've gotten here, and now that I'm on the Revenue Committee it's starting to come into focus, I still have a lot to learn. But when you look at all of our tax policy in a larger picture, we have still not been able to generate that growth that we were after. We put a lot of revenue on the table with the Advantage Act, with LB775, and we have not been able to obtain what you would call stellar growth in our economy. We did have a good run-up in ag, which really gave us a foot up over a lot of other states because of that revenue boost we had and that increase in spending the state had. So I think in the long run we have to look at being able to cut some spending. But you can't look at what happened to one particular industry and say that that shift is okay. And I'm not talking about just the ag producers, I'm talking about all the rural agribusiness that's out there when we do this to our number one industry. It's not just the ag producers that hurt, it's all of the businesses that serve us. And during that time that we had, you know, revenue coming in, corn prices were higher, soybeans, cattle, a lot of the cooperatives and all the ag businesses out there hired a lot of young people. And that's what you see now, you see the data coming in that there has been a resurgence in young people coming back into the rural areas. It's because there were jobs there and they were hiring people right and left with an ag degree or any kind of mechanics or anything else that was out there because everybody needed help. And a lot of young people moved back. And over this last winter they started laying them off. When businesses out there can't afford to hire those services, those companies that provided those services lay off help. And we don't have replacement jobs out there. And right now agribusiness is hurting, and I'm talking all agribusiness. And we don't know when it will turn around. It will turn around again, we've been through these cycles for a hundred years and we'll continue to go through them. Some are better adapted and they survive this and others who are not adapted to it will not survive it, and we'll lose a few more farms and we'll consolidate some more. And I'm not saying that we need to stop that consolidation because it's happened forever and that's what's happened in every business that's out there, whether you're competing with Walmart or anyone else. We're all in the same boat together. And consolidation isn't always bad. With technology that we have we're allowed to farm a lot more acres with one person. Thirty years ago, it wouldn't have been possible. But we spent a lot of money on technology. We have driven the economy to provide that through our increased efficiencies, but now when we go through tough times, the property tax issue rises to the top. [LB947]

PRESIDENT FOLEY: One minute. [LB947]

SENATOR FRIESEN: And it's not just for us. Visiting with one of the railroads around here, they identified it as one of the top issues in the state. So we have to keep looking at what we're doing as a whole tax policy and in property taxes. Right now, I think how we fund K-12 needs to

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

Floor Debate
April 03, 2018

be addressed, and that's going to continue to be my focus as we go forward. Thank you, Mr. Lieutenant Governor. [LB947]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Linehan. [LB947]

SENATOR LINEHAN: Thank you, Mr. President. Senator Erdman asked earlier what I would say next time when I'm going door to door, hopefully this summer, if it ever warms up, and this is what I'll say. I worked with Senator Smith to make sure that the \$224 million that we currently send back to the taxpayers, the taxpayer property tax credit was saved. So the people that live in my district will still get a property tax credit on their property tax bill this year. The original bill took that money and capped property taxes in my district. So that will be one of my answers. The other answer will be that we can't do anything about property taxes and funding the schools until we're willing to sit and look at both the spending side and the way we pay for it. They have to go together. Senator Harr said something about we're the lowest in the state or in the country when it comes to state support for property taxes. That gets repeated again and again, and it blurs the fact that in Nebraska, in our biggest school systems, we the state of Nebraska are already picking up 50 percent of the cost. Maybe it's 45 or 51 or 42. But in our largest school districts, because of TEEOSA, special ed funding, property tax credit funding, homestead tax credit funding, and foundation aid, we are already picking up 50 percent of the cost. So don't be sitting at home and listening to this and thinking that every school out there isn't getting any money from the state. That's not true. I have empathy for the nonequalized school districts, and that does need to be fixed. But this bill doesn't do anything to keep us from fixing that problem. And with that, I would yield the rest of my time to Senator McDonnell. [LB947]

PRESIDENT FOLEY: Thank you. Senator Linehan. Senator McDonnell, 2:50. [LB947]

SENATOR McDONNELL: Thank you, Senator Linehan. I want to thank Senator Smith, Senator Harr for the time they've spent discussing this bill with me. I'm not comfortable with this bill, but I do support this bill to continue the conversation. And my concerns are over work force development and some other areas. But I do believe we should continue to look at this bill and others and look at how we can work together and improve this bill to have some kind of progress on our tax situation for the citizens of Nebraska this year. Thank you. [LB947]

PRESIDENT FOLEY: Thank you, Senator McDonnell. Speaker Scheer. [LB947]

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. We have reached the time threshold on this bill, so we will move on to the next one in the queue. Thank you. [LB947]

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

Floor Debate
April 03, 2018

PRESIDENT FOLEY: Thank you, Mr. Speaker. Items for the record, please. [LB947]

CLERK: Very quickly, Mr. President. An amendment to be printed to LB1089 by Senator Smith. And a motion with respect to LB947 by Senator Krist and Senator Harr, an amendment to LB947. Mr. President, returning to the agenda, LB902, a bill by Senator Bostelman. (Read title.) The bill was introduced January 8, referred to Government. Considered briefly on March 28. Senator, with your permission, Senator Chambers had filed a motion to bracket, but I have a note he wishes to withdraw. (Legislative Journal pages 1370-1371.) [LB1089 LB947 LB902]

PRESIDENT FOLEY: Senator Bostelman, would you like to take a couple minutes and refresh us on LB902? [LB902]

SENATOR BOSTELMAN: Yes. Thank you, Mr. President, and good afternoon, colleagues. LB902 is a public records bill which seeks to protect personal information contained on forms required for any individual in our state and cities to lawfully apply for, obtain, possess, or transfer certain firearms. The bill adds an exemption to public record Statute 84-712.05. The bill would exempt from public records any information obtained by a government entity regarding firearm registration, possession, sell, or use as obtained for purposes of an application or permit issued by such an entity. Law enforcement would continue to have access to such information. Colleagues, again, this bill is aimed at the few forms required in Nebraska regarding firearm purchase or possession. These forms are kept and available whether they are approved or denied. Over all these forms and applications contained an abundant amount of personal information that can be used in a variety of negative ways, including theft, fraud, harassment, and others which could adversely affect an individual or the public. We have already seen fit in Nebraska to include a variety of exceptions to our public record statute for similar type of information, including that of conceal carry permit holders. LB902 addresses and provides a proper balance between concerns of safety and privacy, and I therefore ask for your green vote on LB902 and its advancement. Thank you, Mr. President. [LB902]

PRESIDENT FOLEY: Thank you, Senator Bostelman. At this point, there's nothing pending on the bill. Is there any further discussion on the bill? Seeing none, Senator Bostelman, you are recognized to close. He waives close. The question before the body is the advance of LB902 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB902]

CLERK: 32 ayes, 0 nays, Mr. President, to advance LB902. [LB902]

PRESIDENT FOLEY: LB902 does advance. We will proceed to General File 2018 committee priority bills. Mr. Clerk. [LB902]

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

Floor Debate
April 03, 2018

CLERK: Mr. President, LB807 is a bill by Senator Harr. (Read title.) Introduced on January 4; referred to the Government, Military, and Veterans Affairs Committee. The bill was advanced to General File. There are committee amendments, Mr. President. (AM2392, Legislative Journal page 970.) [LB807]

PRESIDENT FOLEY: Senator Brewer, I understand you are authorized to handle this bill for Senator Harr, is that correct? You are recognized to open if you are. [LB807]

SENATOR BREWER: I have been tasked with that, sir, thank you. Do you want to go into LB807? [LB807]

PRESIDENT FOLEY: Yeah, if you could open LB807 and then we'll proceed with the amendment after that. [LB807]

SENATOR BREWER: Okay. LB807 is simply the process of removing the...one of the existing statues in Statutory Hall in Washington, D.C. I will explain the process now. In 1864, Congress established the National Sanctuary (sic-Statuary) Hall collection inside the U.S. Capitol and authorized each state to provide two statue representatives. Since each state is...since then each state has fulfilled their obligation; Nebraska doing so in 1937 when Governor Robert Cochran led the delegation, the ceremony in the Statue Hall where they placed J. Sterling Morton and William Jennings Bryan in the hall. In 2000, Congress amended the federal law on the National Statutory Hall and provided that any state may request the Joint Committee of the Library of Congress to approve the replacement of statues the state has approved for display in Statutory Hall. LB807 and the committee amendment, AM2392 simply proposes to do just that, replace statues of J. Sterling Morton and William Jennings Bryan with statues of Willa Cather and the amendment replacing with Ponca Chief Standing Bear respectively. Federal law...statutes that the request for replacement shall be considered only if, number one, the request has been approved by the resolution adopted by the Legislature of the state and the request has been approved by the Governor of the state. Second, the statue to be replaced has been displayed in the Capitol of the United States for at least a period of ten years as of the time that it is replaced. Nebraska's current statues have been at the Capitol now for over 80 years. LB807 and AM2392 comply with both of the aforementioned conditions. With the passage and approval of LB807, the Nebraska Secretary of State will send an official request to replace Morton and Jennings statues to the architect of the U.S. Capitol and the Joint Committee of the Library of Congress. After federal approval is granted, the Nebraska Hall of Fame Commission will temporarily serve as the Willa Cather National Statutory Hall Selection Committee. The committee will be responsible for the selection of a sculptor to design a Willa Cather statue that follows all of the criteria established by the architect of the U.S. Capitol. The committee will also be responsible for determining how to transport both the Cather and Morton statues to and from the U.S. Capitol. Similarly, there

Floor Debate
April 03, 2018

will be a Chief Standing Bear National Statutory Hall Selection Committee. However, this committee will be comprised of (1) a representative of the Commission on Indian Affairs; (2) a member of the State Tribal Relations Committee; (3) a chairperson of the Lincoln Partners for Public Art Development; and (4) the Historic Preservation Planner of the city of Lincoln. LB807, as amended, prohibits the committees from spending any state dollars. In 2017, during Nebraska's 150th birthday, the Lincoln Journal Star conducted a survey similar to the World-Herald survey in 1931 to determine that 150 most notable Nebraskans, the Journal Star named Willa Cather as number one, and Chief Standing Bear as number two most notable Nebraskans respectively. Taking the Journal Star's lead, and in an effort to tell new Nebraska stories in the U.S. Capitol, Senator Harr introduced LB807. As introduced, LB807 only proposes to replace the statue of J. Sterling Morton for Willa Cather. After introduction, I approached Senator Harr with the idea of amending the bill to include the removal of the William Jennings Bryan statue for Chief Standing Bear statue. Senator Harr agreed, and together our offices worked out the details with the Nebraska Commission on Indian Affairs and drafted AM2392. The sculpture for Standing Bear will be the same one used for the sculpture here, and that is Ben Victor who did the Standing Bear statue on the mall. Now let's examine the two great Nebraskans that we are asking to be a part of the statutory hall. First, Willa Cather: Willa Cather was born in 1873 and died in 1947; as most notable for her winning the Pulitzer Prize in 1923 for her novel One of Ours about World War I veteran. She is one of the most acclaimed twentieth century authors in the United States. Her writings are translated into 40 different languages. And every month her work emerges in foreign publications, textbooks, and research documents. As a Nobel Prize winner, Sinclair Lewis noted that Cather is Nebraska's foremost citizen because of her thorough stories about the history of Nebraska. Because of Cather and her writings, Nebraska is home to a significant cultural history, the nation's largest collection of historic sites dedicated to an American author. Cather was a true pioneer, the first woman to receive an honorary degree from Princeton and from the University of Nebraska. Before embarking on her career as a writer, she was one of the most important women editors in the United States. Her work remains relevant to this day, and much of it has never gone out of print. And most Nebraska youth at some point have read Willa Cather's books. Transitioning now to Chief Standing Bear. I'm going to read some of the testimony from the Government hearing by Joe Starita. Joe Starita wrote the book I Am a Man, and as a noted historian of Chief Standing Bear. On January 2, 1879, a middle-aged chief of a small tribe in Nebraska dressed the body of his only son in his best clothes, wrapped his body in a buffalo robe and gently placed him in the back of a rickety buckboard wagon. And shortly after that, he and 29 others, 11 men, 10 women, and 8 children began walking from North Central Oklahoma, 550 miles north to near the Nebraska-South Dakota border. As he was dying, Standing Bear's only son, a 16-year-old boy by the name of Bear Shield got his father to promise him that he would return his remains to his beloved Ponca homeland in Nebraska and that he would bury him there and not in his hated soil of Oklahoma. One year later, after forceable removal from the Nebraska homeland, one-third of the tribe had died on their trek to Oklahoma. Within two days... [LB807]

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

Floor Debate
April 03, 2018

PRESIDENT FOLEY: One minute. [LB807]

SENATOR BREWER: Oh, well, cutting to the end here...can we do another period for the amendment then, sir? [LB807]

PRESIDENT FOLEY: Yes, we are going to proceed to the Government Committee amendment and then I think you've got an amendment pending also. So we can move on to the Government Committee amendment if you'd like. [LB807]

SENATOR BREWER: All right, let's do that, that way I can continue the story. [LB807]

PRESIDENT FOLEY: Very good, Senator Brewer. As the Clerk indicated, there are amendments from the Government Committee. Senator Murante, you are recognized to open the committee amendment. [LB807]

SENATOR MURANTE: Thank you, Mr. President; members, good afternoon. AM...the Government Committee amendment becomes the bill and only differs from the original bill in three ways. First, it replaces the statue of William Jennings Bryan with Chief Standing Bear. Second, it prohibits state funds from being used to create the statue. And, third, it allows private donations to be used to create the statue. And with that I will yield the balance of my time to Senator Brewer. [LB807]

PRESIDENT FOLEY: Thank you, Senator Murante. Senator Brewer, you've got 9 minutes and a half. [LB807]

SENATOR BREWER: All right, thank you. I will pick up where I left off. Within two days, Chief Standing Bear and his party...hold on a second, go back to where I was here...at that point, Chief Standing Bear started north in a cold wind in January. And in the process of moving north, they were intercepted within two days of the sacred burial ground by chief...by soldiers coming out of Fort Omaha and were turned around and marched back to Fort Omaha. This is...this set in motion a story that explains why Chief Standing Bear's statue should be representative of Nebraska in our Nation's Capitol. The highest ranking officer west of the Mississippi saw them coming in on that cold day on the lower parade grounds in 1879. Brigadier General George Cook could not quite believe what he saw. They were severely frostbitten. He saw them with the children staggering with hunger, starving, near death. At that point his superiors were Lieutenant General Philip Sheridan in Chicago. He told them of the 30 prisoners that had left the reservation in Oklahoma without permission, that he needed to know what to do. General Sheridan who was famous for his dislike of the Native Americans said that he must return them and march them

Floor Debate
April 03, 2018

back to Oklahoma. Brigadier General Cook knew that this was a death sentence, and so he was in an ethical dilemma and had to make a moral decision as a military man. He had strict orders, march them back to where they came from. But if he did, he knew that they would die. But the consequences were career-ending for him. Upon the cover of darkness, he rode three miles south to the office of the assistant editor of the Omaha newspaper, what would be become the Omaha World-Herald, and he told the story of this middle-aged American Indian Chief who was trying to honor his promise to his son. And that was just set into...that set into motion extraordinary chain of events. The first lawyer to be admitted to the bar in the history of Nebraska who read about the story from the paper, which the Omaha paper, decided that he would take a shot at giving Standing Bear his freedom. So he filed a writ of habeas corpus to the court. And on 1 May, 1879, Standing Bear officially sued the government of the United States and the trial unfolded on the third floor of the brick courthouse at 15th and Dodge. The court was packed. The people in Omaha had read about this for weeks. They watched as the trial unfolded, and for the first time in the history of the United States, an American Indian was suing the court to gain freedom, something that had been tried 22 years earlier by a black man, a slave by the name of Dred Scott. And he was told that no, he did not have his freedom. He was told that by the Chief Justice of the United States Supreme Court that a negro has no rights a white man is bound to respect. A bear-hunting, grizzled-frontier judge listened to Standing Bear and he saw him walk up to the bench. And in a climatic moment of the trial, he saw him raise his right hand and told the crowd that this hand is not the color of yours, but if I pierce it, it will have pain. If you place...if you pierce your hand, you, too, will feel pain. The blood that will flow from mine will be the same color as yours. I am a man. The same god made both of us. The judge, Elmer Dundy, said that he would take it under consideration and advisement. Ten days later, Judge Elmer Dundy ruled for the first time in 103-year history of the United States that from this point forward, Native American people would have the right to be considered a person. Standing Bear was freed and given his citizenship and freedom. This started on the third floor of an Omaha courthouse. The middle-age Ponca chief who was just wanting to bury his son changed the world. Progress and civil rights struggled in the United States and is marked by a number of people and cases, cases such as Brown v. Board of Education in Georgia; a Dr. Martin Luther King's Alabama...in Georgia, Dr. Martin Luther King and Alabama Rosa Parks, Nebraska has a proud history, and this is an excellent example of someone who should be placed in the Hall of Statues. Thank you, Mr. President. [LB807]

PRESIDENT FOLEY: Thank you, Senator Brewer. Debate is now open for LB807 and the pending Government Committee amendments. Senator Pansing Brooks. [LB807]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. I stand in strong support of the amendment offered by Senator Brewer and of LB807, Senator Harr's bill. I think that it is a really fitting tribute to Nebraska to honor both Willa Cather and Standing Bear. As Senator Brewer read and discussed that Standing Bear was a statewide leader and national leader for the

Floor Debate
April 03, 2018

Native Americans and therefore for all of us. And as far as civil rights goes, certainly his advocacy is to the Native Americans what Martin Luther King is to the African-Americans. Standing Bear embodies the ideal that all men are created equal. And as was eloquently stated in the case that is so famous that happened in Omaha, it gave Native Americans standing as persons within the meaning of the law. I have to say that at first when I heard about this, I was a little bit concerned because I represent the district where the house of William Jennings Bryan is standing, and where two hospitals are named in his honor. And I think that most people know that probably his last acts are seen with derision and humor as he tried to argue the Bible. But if you actually look even deeper about William Jennings Bryan, it became clear about some of his attributes. And I just want to quickly set the record on those attributes so that we don't forget those attributes and that we might be able to go forward and bring that statue back to Nebraska and place it somewhere where we can appropriately recognize him if there's not an appropriate place somewhere outside of statutory hall. William Jennings Bryan was a three-time nominee for President. He served in the House of Representatives. He was Secretary of State under Woodrow Wilson. And he was integral in the founding of the League of Nations, which later became the United Nations. So I want to say that this seems like a really good move because Willa Cather's writing should be celebrated. And I presume that all of us have read Cather in our high school days or before and...I hope we have...and so I think it's perfectly appropriate that we move forward and celebrate both Willa Cather and Standing Bear. And then just keep in mind the other valuable people that we have celebrated in the past, including J. Sterling Morton. But there are other ways to celebrate them. And this move, I think, is perfectly appropriate and I would support both the amendment and the underlying bill. Thank you, Mr. Lieutenant Governor. [LB807]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Kolterman. [LB807]

SENATOR KOLTERMAN: Good afternoon, colleagues; thank you, Mr. President. I was wondering if Senator Harr would yield to a question or two. [LB807]

PRESIDENT FOLEY: Senator Harr, would you yield, please? [LB807]

SENATOR HARR: Yes. [LB807]

SENATOR KOLTERMAN: Senator Harr, your bill was originally part of this. Can you tell me how many years these two statues have stood? [LB807]

SENATOR HARR: Currently, I believe it was in the 1930s was when it was originally...1937. [LB807]

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

Floor Debate
April 03, 2018

SENATOR KOLTERMAN: That's a long time. [LB807]

SENATOR HARR: It is, it is, 85 years this year. [LB807]

SENATOR KOLTERMAN: I would suppose it's okay to change them after 85 years. After all, we change positions here every eight. How many days do you have left in this session? [LB807]

SENATOR HARR: (Laugh) Seven, but who's counting? [LB807]

SENATOR KOLOWSKI: I am. Anyway, I would yield the rest of my time to Senator Harr. [LB807]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Senator Harr, four minutes. [LB807]

SENATOR HARR: Thank you, Mr. President. You know, I want to thank Senator Brewer. The work he did on this, I was joking with him earlier today saying I'm the show horse and he's the work horse on this. This bill would not be where it is today without the hard work of Senator Brewer and without the committee priority...Tribal Committee priority. So I want thank that committee as well for the priority on this. I would ask for your green light and your support on the amendment and the underlying bill. Thank you. [LB807]

PRESIDENT FOLEY: Thank you, Senator Harr, Senator McCollister. [LB807]

SENATOR MCCOLLISTER: Thank you, Mr. Lieutenant Governor. I also want to thank Senator Brewer for the hard work on this bill. When I go around to middle schools or high schools doing my presentation, I talk about Standing Bear and what a great historical person he was in Nebraska history. And I would most certainly like to replace J. Sterling Morton's statue in Washington, D.C. at least with the Ponca Chief Standing Bear. That would be a grand improvement. What he did for Native Americans is absolutely the best. And he...that would be a statue I think we could be proud of in Washington. So I would certainly favor the Standing Bear over J. Sterling Morton any day of the week. Thank you, Mr. President. [LB807]

PRESIDENT FOLEY: Thank you, Senator McCollister. Senator Chambers. [LB807]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, it's regrettable that some of us have to go to court to have ourselves declared members of the human race. The famous case before Brown v. Board of Education, and I have mentioned it, was the Dred Scott

Floor Debate
April 03, 2018

decision where the chief justice said black men have no rights which white men are bound to respect. Respect is the word. It does mean something, especially when you are deprived of it, denied your humanity, and yet are expected to show more of both than those who disrespect you and do not regard you as a human being. So Standing Bear did something not just for the native people of this country, but for all human beings. His was, to use the cliché, a tribute to the majesty of the human spirit. And we never know when that is going to be shown. There was a guy in England named John Merrick, and he had growths that caused his body, his face, his head to be misshapen. He wound up in a freak show and always thought of himself as some thing other than what everybody else was, but he had and demonstrated artistic ability. One day he got off a train in England. He was shuffling through the station, and because of these growths, he couldn't walk like everybody else, so as children would do, they made fun of him, because he had something like a burlap that covered his head and his face with an eye hole in it and they began to taunt him, as children will do. So he tried to get away from them. He was hurrying down the street the best that he could, and he bumped into a little girl. She fell. Because of his appearance everybody thought he did it intentionally, so instead of just the children, adults began to chase him, also. He ran...well, not ran, he moved as rapidly as he could. Then he came into this...there were two buildings, and something like a driveway that sloped downward from the sidewalk, away from the sidewalk, and then there was a wall with a large door. He didn't know this, so he turned and he ran down. And these people surrounded him, and they were coming toward him and somebody came up and they pulled the hood off his head, and they were horrified and fell back. When he looked at them, he could see what they saw, and he knew what it was. And all he could say and was barely understandable, he said--I am a human being. I am a human being. It's like these people realized what they were doing. This human being, misshapen, was being hounded and pursued in the way that hounds would pursue, corner, and rip a fox apart. I can't say that Merrick achieved humanity that day, but maybe somebody in the crowd understood what it meant to be a human being, that there was a way that no human being, regardless of how he looked, should not be treated. So John Merrick... [LB807]

PRESIDENT FOLEY: One minute. [LB807]

SENATOR CHAMBERS: ...told those people he was a human being. Standing Bear let the world know that Native Americans were human beings. And when Martin Luther King went to Memphis and was assassinated, the banner that those black men were carrying had the slogan--I am a man. Those things don't mean anything to you all who have been privileged. But to those who had nothing, and everything was taken away, these words are more than slogans. And I'm grateful that Senator Brewer has given us this opportunity today, and he will share something with the world that the world should be made aware of. Thank you. [LB807]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Murante, you're recognized to close on the committee amendment. He waives close. The question for the body is the adoption

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

Floor Debate
April 03, 2018

of AM2392, Government Committee amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB807]

CLERK: 35 ayes, 0 nays on adoption of committee amendments. [LB807]

PRESIDENT FOLEY: Committee amendments are adopted. [LB807]

CLERK: Senator Brewer, I understand you wish to withdraw AM1863. I have nothing further on the bill, Mr. President. [LB807]

PRESIDENT FOLEY: Nothing further on the bill. Is there any further discussion on LB807? Senator Brewer, would you like to close on the advance of the bill? [LB807]

SENATOR BREWER: Quickly, sir. Thank you, Mr. President. I just ask folks to remember that it has been 80 years. That this is by no way a task that we are doing to dishonor those that are there. It's simply a chance to share the rich history of Nebraska with those from the rest of the country and the world that go and see the Statutory Hall and that Standing Bear, after the decision at the courthouse in Omaha, was able to go on and speak to Congress in 1880. And I think it's fitting that he be allowed to return. Thank you, Mr. President. [LB807]

PRESIDENT FOLEY: Thank you, Senator Brewer. Members, you heard the debate on LB807, the question before the body is the advance of the bill. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB807]

CLERK: 37 ayes, 0 nays on the advancement of the bill. [LB807]

PRESIDENT FOLEY: LB807 advances. We will proceed to the next bill, LB1015. Mr. Clerk. [LB807 LB1015]

CLERK: Mr. President, LB1015 is a bill by Senator Briese. (Read title.) Introduced on January 16; at that time referred to the Government, Military and Veterans Affairs Committee. The bill was advanced to General File. There are committee amendments. (AM1927, Legislative Journal Page 794.) [LB1015]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Briese, you're recognized to open on LB1015. [LB1015]

Floor Debate
April 03, 2018

SENATOR BRIESE: Thank you, Mr. President; and good afternoon, again, colleagues. I rise today to present to you my LB1015. And it is amended by a committee amendment, I believe it's AM1927. But I'm going to speak to both the bill and the amendment while I'm here. This is a bill to provide a measure of confidentiality for first injury reports on private citizens filed with the Nebraska Workers' Compensation Court. Nebraska Revised Statute Section 48-144.01 requires that in every case of reportable injury arising out of an injury in the course of employment, the employer or workers' compensation insurer shall file a report thereof with the Nebraska Workers' Compensation Court. These reports typically contain the name of the injured, the name of the employer, the type of the injury, the circumstances surrounding the injury, the body parts involved, among other things. And these are the kind of details, colleagues, that in any other situation would be covered by HIPAA and assorted other federal and state programs to protect the person's medical history. But in these workers' compensation cases, they, essentially, become a public record. Nebraska Revised Statute Section 84-712 makes available for examination by citizens all public records of the state or any public or any political subdivision. Section 84-712.05 provides exceptions to these open record...to the Open Record Act by allowing entities to withhold from public view various categories of records. There's currently 20 such categories of exemptions. The amendment amends both of these statutes to restrict access to first injury report. First the amendment amends Section 48-144.01 to make these first injury reports confidential, unless such disclosure is required in the newly created paragraph 21 of Section 84-712.05. And second, the amendment amends that section, Section 84-712.05 to create a new category of exception to the Open Records Act. And this new exception is for those first injury reports required by Section 48-144.01. But the amendment provides that such records shall be available in limited circumstances. These circumstances include requests by the employee or his or her agent, the employer, workers' compensation insurer, risk management pool; or third party administrator that is a party to the report; or the agent of any of the above; or by a party identifying number and nature of injuries to employees of employers identified in the request, so long as the name of the employees are redacted; or by a nonprofit for providing memorials, condolences, or grief counseling in the event of an employee death. The amendment further provides that such records shall be made available for any federal or state investigation, or compilation of statistical information so long as that personally identifiable information is redacted to protect privacy. Colleagues, this is good legislation. It protects the privacy of our citizens. By doing so, it also can encourage workers to come forward to disclose minor injuries they might otherwise be reluctant to disclose. And the disclosure of this information really is not necessary. The workers' compensation court has an 800 number which employees can call to access information regarding their rights. Injured workers already have adequate access to information regarding legal representation. And the vast majority of these cases, roughly 3 percent...or the vast majority do not result in litigation, I think only about 3 percent do. So my question is, what need is so compelling as to warrant this intrusion into the privacy of these employees? And I submit, there is no such compelling need. I do note that this bill was supported in committee by the Nebraska Chamber, the Nebraska Retail Association, the

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

Floor Debate
April 03, 2018

restaurant association, the grocers association, Father Flanagan's Boy's Home, and a letter in support from the Nebraska Hospital Association. But perhaps more importantly, I do note that several rank and file employees testified at the hearing on this bill. While the only opposition testimony to the bill was from six lawyers, and a representative of the Nebraska AFL-CIO, all rank and file employees testified in support of this bill. From the testimony, it looks like Nebraska employees want this protection. So, colleagues, again, I believe this is good legislation. I'd ask for your support. I appreciate your green vote on the amendment and the bill. Thank you. [LB1015]

PRESIDENT FOLEY: Thank you, Senator Briese. As the Clerk indicated, there are Government Committee amendments. Senator Murante, you're recognized to open on AM1927. [LB1015]

SENATOR MURANTE: Thank you, Mr. President; members, good afternoon. AM1927 adds exceptions to the general public records exemption of the bill. First, it provides that the report shall be made available for inspection or copying by the following. (A) the employee who is the subject of the report, or by an attorney, or authorized agent of such employee; (B) the employer, workers' compensation insurer, risk management pool, or third party administrator that is a party to the report, or an attorney, or authorization of such party; (C) A third party for the purpose of identifying the number and nature of any injuries to any employees of an employer if the identify of any employee is redacted prior to releasing the reports; (D) a nonprofit organization for the purpose of sending condolences to, providing memorials for, and offering grief counseling to family members of an employee whose death was caused by workplace incident. Second, it makes clear that the reports must be disclosed by the court if the reports are requested for use in connection with a state or federal investigation, or examination, or for use by the state or federal government to compile statistical information. It also makes clear that outside of those situations enumerated in the bill, the records are not public records. That is the committee amendment. I encourage your support of the committee amendment and of LB1015. Thank you, Mr. President. [LB1015]

PRESIDENT FOLEY: Mr. Clerk. [LB1015]

CLERK: Mr. President, Senator Harr would move to amend the committee amendments with AM2590. (Legislative Journal page 1115.) [LB1015]

PRESIDENT FOLEY: Senator Harr, you are recognized to open on your amendment. [LB1015]

SENATOR HARR: Thank you, Mr. President. Let me first start off by saying, I'm not sure workers do support this. I know the AFL-CIO is against it and that I have yet to hear a worker say--I am injured, but I will be darned if I'm going to report it, because if I report it, I might get a

Floor Debate
April 03, 2018

letter from somebody. I have yet to hear that. But I'm going to get into my amendment now. So a lot is going on in the world right now, folks. There's a company called Cambridge Analytica. For those of you that don't know who Cambridge Analytica is, they are an internet company who bought data from a company called Facebook. How Facebook makes money, how Cambridge Analytica makes money, how for some of the older people in the audience, how Myspace makes money is they sell your data. So we in the Legislature have a Gmail account. The rest of the state has a separate account. We went with Gmail because it was cheaper, right, and we wanted to save money. But in this day and age, you have to remember, it's not always what you are buying, but what you are selling. So Facebook lets you play on its site for hours for free, but then it sells that information. Cambridge Analytica lets you play on their Web site or sells that data that they bought from Facebook to the Trump campaign and others. Gmail, we're cheaper, but guess what, folks, Gmail reads Google, reads our e-mails. That's what we gave up. So we need to have a conversation in this day and age what information that we provide that the government has should we allow to be sold, what information should we allow to be publicly accessed, and what information do we say doesn't belong in the commercial zone. So I have a...my amendment says no information can be sold for commercial purposes. And let me just state, I would get you the exact wording of it, but our Web sites are down. Right? That's a problem. So if anyone in IT would get on that, I would appreciate it. But folks, we have to...should information be allowed? Should other people be allowed to sell that information? Should other people be allowed to access that information? Senator Bostelman says no. He says, you know what, if it's a gun, no, you should not have that information. So what's good for the goose is good for the gander. Let's have a conversation about what information should be sold, what information is available to the public, and what information isn't. And let's decide--are we going to allow this information to be commercially available? Because if you don't think it does, you are going to be raising taxes, because there are a number of services that the state receives, including our own e-mail accounts, where other people mine that data of what we create. Other people look at that and say, hey, I know how they think; I know what they are doing. Other people know what's going on when we may not even know what's going on. So let's have a conversation. Let's decide on a state level, a conversation that's going on on the national level. What information should or should not be allowed to be sold commercially? That's what this amendment does. If Senator Briese thinks it should be limited to workers'...if he thinks it's good for workers' comp, then it should be good across the spectrum. We shouldn't be able to sell our driver's license information. We shouldn't be able to sell who has a CCW license, who owns a gun, who has a handgun permit, we shouldn't be able to sell who has a hunting permit, we shouldn't be able to sell who has a college degree, who has a high school degree. We shouldn't be able to sell any of that tax information that may not be being sold right now. But let's make a blanket statement. Let's decide where we want to be. What do we want to sell and what don't we want to sell? Thank you. [LB1015]

PRESIDENT FOLEY: Thank you, Senator Harr. Debate is now open on the bill. Senator Morfeld. [LB1015]

Floor Debate
April 03, 2018

SENATOR MORFELD: Thank you, Mr. President. Colleagues, I rise in opposition to LB1015 and the Government Committee amendment. I actually, as a legal clerk, worked at a firm that worked on workers' comp issues, and I know the area fairly well; I wouldn't say I'm an expert. But I'll also tell you that most employees, if not all employees, that are looking at making a workers' comp claim are not dissuaded or even know that their name would be disclosed in a public database, or even care that they received a bunch of letters from some attorneys saying, hey, we can help you out with that claim. That is not something that is dissuading them from filing a claim. I can guarantee it. And, in fact, many workers don't know that there's attorneys out there that are willing to help them with those claims. So if anything, the current law actually helps working Nebraskans receive legal assistance in their claim. And I will tell you that I know attorneys that work in this area, and oftentimes they will look at the claim and they'll go--you have a claim or not quite sure you have a claim; I'm not going to spend the time on your case. This is simply making it harder for working Nebraskans to be able to get the legal assistance that they need in order to achieve justice. Look, in the end, that's why we have the justice system. The court will determine whether or not they actually have a claim, whether it's legitimate, whether they have representation or not. But I will tell you what, it's a lot harder to get justice if you don't have legal representation. And that's, essentially, what this bill is trying to do, is just make it tougher to get representation, tougher for working Nebraskans to get the information they need to be able to have their rights vindicated, or to be told, hey listen, you don't have a viable claim. This bill is unnecessary; it's not solving a problem that actually helps working Nebraskans. But what it does do is it helps corporations and businesses and maybe even some small businesses; I fall under the Workers' Comp Act as well as an employer. It makes it easier for us to be able to go through the process without having an attorney on the other side, which might be a little bit cheaper for folks like us. But I'll tell you what, I have insurance, they cover those instances, particularly where maybe there is a frivolous claim. In either case, we shouldn't be making it harder for working folks who generally don't know their rights, generally don't know that there's attorneys out there that will actually take some of these claims and assist them. It just makes it harder for them to get justice. And that's why I'm opposed to LB1015. Thank you. [LB1015]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Bolz. [LB1015]

SENATOR BOLZ: Thank you, Mr. President. Would Senator Watermeier yield to a question? [LB1015]

PRESIDENT FOLEY: Senator Watermeier, would you yield, please? [LB1015]

SENATOR WATERMEIER: Yes. [LB1015]

SENATOR BOLZ: Senator Watermeier, you're our Exec Board Chair, is that right? [LB1015]

Floor Debate
April 03, 2018

SENATOR WATERMEIER: Yes. [LB1015]

SENATOR BOLZ: Senator, can you tell me what my rights are under workers' compensation if I were to be injured on the floor? [LB1015]

SENATOR WATERMEIER: No, but we have a policy for that. I can't directly tell you that. [LB1015]

SENATOR BOLZ: Okay, thank you, Senator. Senator Krist, will you yield to a question? [LB1015]

PRESIDENT FOLEY: Senator Krist, will you yield, please? [LB1015]

SENATOR KRIST: Sure. [LB1015]

SENATOR BOLZ: Senator Krist, you're the former Exec Board Chair, is that correct? [LB1015]

SENATOR KRIST: Yes. [LB1015]

SENATOR BOLZ: Can you tell me my rights under workers' compensation? [LB1015]

SENATOR KRIST: I don't get paid to make those decisions anymore. But we do have a policy that covers the compensation for employees, and I can't quote it either. But I'd be happy to look it up for you. [LB1015]

SENATOR BOLZ: Very good. Thank you, Senator Krist. My point is just that the people on the floor that I would look to for answers neither know the answer nor are, to Senator Krist's point, necessarily positioned to advise me of my rights under workers' compensation...my rights under workers' compensation. Unless you think that being a senator is not a job that would put you in peril, I ask you to recall when Senator Hadley had the experience of the Revenue Committee being a contact sport and hobbled around the Legislature for a period of time; greetings, Senator Hadley, if you're listening. But my point is that it is important that when someone is injured on the job, that they do have access to legal information. And that the people who you work with, even the people to whom you might typically turn, like, say, an Exec Board Chair, are not necessarily positioned to provide you the information and the guidance that you need to fully execute your rights under the law. I was reviewing some of the information that my staff helped compile for me related to this legislation and was reflecting that some of the testifiers who

Floor Debate
April 03, 2018

testified on this bill had relatively minor injuries. And we may be more comfortable navigating workers' compensation if the potential fiscal or other risks to us are not large. But those individuals who might have a serious injury certainly need to understand all of the nuances and all of the aspects of the workers' compensation law. And I am concerned that this piece of legislation does not allow workers to get the representation and have the knowledge that they need in order to assist them with their rights. And they may not otherwise have access to legal counsel. You know, particularly, I would make the observation that there are workers in Nebraska whose native language isn't English. And so not only navigating rules and policies that are complex, but in a language that is not your own, you may want a Spanish-speaking attorney. You may want someone who has expertise in your particular type of industry or your particular type of injury. And so I stand in opposition to the changes being made here. I have some concerns about workers not being able to access the information that they need. And I know that if I were injured on this job, I would want a trusted legal representative to provide me with information that is not easily accessible to me in my workplace. Thank you, Mr. President. [LB1015]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Hansen. [LB1015]

SENATOR HANSEN: Thank you, Mr. President; and good afternoon, colleagues. Colleagues, I rise in a kind of listening to debate and hearing some of the questions on LB1015 and wanted to continue to learn more about the bill, I guess, but do say I have concerns. I do think this is very similar to a bill we heard last year in Business and Labor Committee, wasn't dealing specifically with public record statutes, but was dealing with the confidentiality of public records, especially in terms of first injury reports for workers' compensation claims. I do think there were similar issues raised in both bills. So having sat through a hearing on a substantive similar bill as LB1015, one of the things I keep hearing and learning on the Business and Labor Committee is kind of the ongoing tug-of-war between employers and employees over kind of the perceived nature of workers' comp. And there's a lot of times to hear it...to hear some of the testifiers for limiting workers' comp, to making workers' comp harder to get, to putting up more barriers, you often hear that some of these claims like workers' comp is a windfall or that's, like, at least the impression I get testifying, sitting across from them, that it's worth it to get a workers' compensation claim, and we need to do all we can in the world to reduce costs, reduce, reduce, reduce. Well, that's kind of some of the concerns I have in seeing it from the other side. For example, bringing workers' compensation bills. I've been working on a bill about total permanent disability. So currently in Nebraska if you are put on total disability as a result of a workers' compensation claim you get a set amount based on your salary with a statutory cap, and that amount never changes. So if you're a 20-year-old who's got his first job, that's got a small salary, gets injured, gets put on permanent disability, you get injured, you are set to one amount not adjusted for inflation for the rest of your foreseeable career; where in actuality, you would have an opportunity to increase your income, to do different things, that just work your way up the career ladder. And I bring up this, I bring up kind of the holistic point of workers' comp to talk

Floor Debate
April 03, 2018

about Senator Briese's bill is there's a little bit about that misconception that I heard in his opening; and Senator Harr already touched on it. The misconception that the workers' comp system is feared or is being avoided by workers because they're worried about their privacy. I don't think the workers' compensation system is being avoided by workers because they're worried about their privacy, I think it's being avoided by workers because they don't understand it. As we've already started to get to on this floor, I don't think very many people do understand it. That's why often in many situations an overall attorney is needed. Looking further at the Government Committee amendment, I noticed there was...and I made the mistake of closing my laptop with the amendment on it before I opened my speech, but I realized that we're creating a public records exemption and we're recruiting exemptions to the exemptions in the Government amendment of AM1927. And one of those is specifically for a nonprofit that would allow for grief counseling and condolences to those injured or killed in workers' compensation claims. So we're already in the initial bill, in the initial committee amendment, we're starting a standard where we are providing a stricter standard or...sorry...I won't say stricter...a different standard for people who are killed in workplace accidents than for people who are injured in workplace accidents. People who are killed in workplace accidents, there's a special exemption for a special type of nonprofit to get access to these records, when just overall any other record, any other court record would have been available in the first place. That's one of my frustrations occasionally, sometimes with bills I see, and a lot of times we do fix it either in the committee process or on the floor is where we take an issue, two steps forward, one step back... [LB1015]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: One minute. [LB1015]

SENATOR HANSEN: Thank you, Mr. President...two steps forward, one steps back, sometimes leaves me more confusion about the intent or the goal of the bill in the first place. So those are just my kind of quick initial impressions of LB1015. I do appreciate Senator Briese and Senator Harr for their openings on the issue. Hopefully we can keep talking about it and figure something out here. I think kind of the overall issues of privacy and data are kind of the looming issues that we're going to have to be dealing with more and more on both the state and national level in the future. I'm glad we could have this discussion today. Thank you, Mr. President. [LB1015]

SPEAKER SCHEER: Thank you, Senator Hansen. Senator McDonnell, you are recognized. [LB1015]

SENATOR McDONNELL: Thank you, Mr. President. I'm looking at this from a couple different perspectives. I was injured at a fire, fell through the floor and was in the hospital for a number of

Floor Debate
April 03, 2018

days and going through rehabilitation. At the time, I had experience with the workers' comp laws, and some of my fellow firefighters who had been injured, so I had a comfort level. But it is different when it happens to you. Our employment is such a large part of our lives. If you're doing something with people around you that you're working every day, and that they become part of your life, they become your second family. So you're going through that process. And now you are injured; you're separated and you're on your own. Again, my situation a little different because I had some experience with workers' comp. Now you don't know what to do. And you're in that situation and you're looking for help. And as fire management, as a fire chief, and as a union president, I looked at it both from the both perspectives the same way. I want that person to get back to work as quickly as possible. The person that's injured wants to get back to work as quickly as possible. But a lot of times they just don't know what to do. They don't know their rights. They don't have people around them, possibly, that had some experience, and you're going through that whole stressful situation. And not only are you going through it, but your family is going through it. Then with injuries that are possibly going to be where you're never going to fully recover, you start thinking about your career. You start thinking about what you're going to do next, how you're going to help support your family, and all these things are going through your mind. Then you get some information, possibly, in the mail. Again, it could be junk mail that day. It could be a letter from an attorney. At that point you can look at it. You can throw it in the trash can, or you can say, yes, here's somebody that I could reach out to for advice, for help. And that's what currently goes on right now. I am opposed to LB1015 because I don't think it's necessary. I think what happens now with people that need assistance, need advice and that are in that situation and they're under a great deal of stress, and so is their families, I believe that letter can make a difference. And again, if the letter isn't needed because that person has experience or already has someone that they can talk to and get advice, great, then you throw it in the trash can. But the difference it can make for a number of people that don't...they don't have that person to turn to, they don't have that experience, I think outweighs what we're trying to do with LB1015. I would encourage you to please oppose LB1015. And for those people that need this assistance, give them the opportunity to open their mail, possibly have that person that's going to work with them and help them through a tough situation with workers' comp. Thank you. [LB1015]

SPEAKER SCHEER: Thank you, Senator McDonnell. Mr. Clerk for a motion. [LB1015]

CLERK: Mr. President, Senator Chambers would like to bracket the bill until April 18 of 2018. [LB1015]

SPEAKER SCHEER: Senator Chambers, you're welcome to open on your bracket motion. [LB1015]

Floor Debate
April 03, 2018

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, my preference would be to bracket this bill until the 12th of never, but our rules don't allow for that. So I would like to ask Senator Briese a question or two if he would respond. [LB1015]

SPEAKER SCHEER: Senator Briese, would you please yield? [LB1015]

SENATOR BRIESE: Yes. [LB1015]

SENATOR CHAMBERS: Senator Briese, for many, many years, I've been on the Business and Labor Committee, and I'm familiar with some of these individuals who testified for this bill and some of these entities. Not one of them has ever appeared to speak on behalf of workers. Can you show me one of these who have or which has favored an increase in the minimum wage? [LB1015]

SENATOR BRIESE: No, I can't answer that question. I don't know if any of these folks have supported that increase or not. The rank-and-file folks, I assume, would support an increase in the minimum wage. I don't know that. [LB1015]

SENATOR CHAMBERS: When you say rank and file, you have four people, correct? [LB1015]

SENATOR BRIESE: I see...yes, I do see four there. [LB1015]

SENATOR CHAMBERS: Okay. And they could have been put up by one of these operations to come, in the same way that when black people have tried to do something, they can find a very impoverished black person to speak against it. And when that one person speaks, then the enemy will say, see, black people don't want this. [LB1015]

SENATOR BRIESE: Is that a question? [LB1015]

SENATOR CHAMBERS: No, no, that's to give a context. Why should I believe that these organizations which always speak against benefits that would go to workers, whether injured or not, why should I believe that all of a sudden they're concerned about the privacy of these individuals who would be hurt? [LB1015]

SENATOR BRIESE: Well, I don't know how to answer that question. But I do know that the rank and file that testified, they support what we're trying to do here, contrary to what other

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

Floor Debate
April 03, 2018

senators have suggested. The folks that testified at that hearing, the workers, they want these protections. [LB1015]

SENATOR CHAMBERS: You had four people. More workers than this will testify in favor of raising the minimum wage, but these groups always oppose it. That's all I will ask you. Members of the Legislature, this is pernicious legislation, and frankly, I'm disappointed in Senator Briese. He is a lawyer and he knows that these groups are opposed to workers' benefits. But let me ask him another question. This time there will be a question mark on the end of it. [LB1015]

SENATOR BRIESE: Yes. [LB1015]

SENATOR CHAMBERS: Senator Briese, do businesses pay money into this workers' compensation fund? [LB1015]

SENATOR BRIESE: Yes. [LB1015]

SENATOR CHAMBERS: They do? So they don't...oh, thank you very much. Members of the Legislature, you mean to tell me these people who don't want to pay benefits to employees anyway are worried about somebody knowing that an employee got hurt? They don't want people to know that employees have gotten hurt. That's what it is. The chamber of commerce, not the chamber of workers, not the chamber of the poor, not the chamber of those who are injured. I could take three hours on this by myself if nobody else would speak. This is one of the worst bills that I have seen. And I think it was crafted in the way that it is so that it could go to the committee that it went to. Maybe there would be enough people on Business and Labor to let a piece of trash like this out. And it is trash. Who in the world...I'd like to ask Senator Brewer a question. [LB1015]

SPEAKER SCHEER: Senator Brewer, would you please yield? [LB1015]

SENATOR BREWER: Yes, sir. [LB1015]

SENATOR CHAMBERS: Senator Brewer, have you ever heard of a guy named George Armstrong Custer? [LB1015]

SENATOR BREWER: Yes, I have heard of George Armstrong Custer. [LB1015]

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

Floor Debate
April 03, 2018

SENATOR CHAMBERS: Suppose he came and said I'm very interested in the uplift of Native Americans. Would you believe him? [LB1015]

SENATOR BREWER: I would question that. [LB1015]

SENATOR CHAMBERS: Thank you very much. Members of the Legislature, I don't know what those people who put Senator Briese up to doing this thought would happen when it got to the floor. They know what my view is on workers and poor people. Even when women would come before us and they work in these restaurants and they get tips, do you realize that those people, the restaurateur representatives don't want to raise or even give them anything in the way of a minimum wage because they make so much in tips? These would make Scrooge look like the soul of generosity. And he was a tight-fisted, hardhearted, old skinflint of a miser. And these people on this bill could comprise a rogue's gallery. These people and their organizations are against workers. They're against the welfare of workers. Let somebody get hurt, you don't see these people shedding any tears. They don't want the workers to know. Knowledge is power. And they don't want the workers to have any power. I'd like to ask Senator Briese another question if he'd respond. [LB1015]

SPEAKER SCHEER: Mr. Briese, would you please yield? [LB1015]

SENATOR BRIESE: Sure. Yes. [LB1015]

SENATOR CHAMBERS: Senator Briese, do you think the chamber of commerce would be in favor of converting...of taking away the right-to-work status, as they call Nebraska? Do you think they'd like to do away with that? [LB1015]

SENATOR BRIESE: I can't speak for them. [LB1015]

SENATOR CHAMBERS: What do you think from what do you know? Because you're a lawyer and you're an intelligent man. [LB1015]

SENATOR BRIESE: I would assume they wouldn't support that. [LB1015]

SENATOR CHAMBERS: They would support it? [LB1015]

SENATOR BRIESE: Wouldn't. [LB1015]

Floor Debate
April 03, 2018

SENATOR CHAMBERS: Oh, okay. Thank you, Senator Briese. Members of the Legislature, you know why they wouldn't support it? Because with things being like they are now, the worker works at will. These people can fire them for no reason. The mistake they make, if they give a reason, and it's the wrong reason, but these groups who are saying what they're saying because they're worried about the privacy of workers? I don't like to use white people's slogans, but this time I've got to--Senator Briese, give me a break. I don't mean my head, because that's what they would like to have happen. I cannot believe that this kind of bill got out of committee, until I looked at what committee it was. This bill is going nowhere but to the trash heap, unless I die before the time for this bill comes expires. And I want to assure Senator Briese that he is getting even with me by way of this bill for all of the unwise wages he may have made. He knows how much I would hate a bill like this. He knows how hard he's going to make me work. He's chuckling inside. He doesn't care about this bill. Senator Briese is a man of integrity. Senator Briese is a man who may, in his early days, have had a job and worked like an honest person; at one time when he wore a younger man's clothes. But now that he's a lawyer, rubbing elbows with the big shots, drinking ripple...well that's what poor people drink. He's going to bring a bill like this and do it with a straight face. But he's not going to get away with it today. I'm not going to say Senator Briese is a bad fellow for this, but I would say he's an evil one. This group would comprise a rogue's gallery. If you put the clothing on them that they should wear based on their negative attitude toward workers, they would have masks. They would have disguises. And if they walked in a bank, it would be for the purpose of making an unauthorized withdrawal rather than to make a deposit. I am shocked. I am amazed. I'm flabbergasted. I'm dumbfounded. I am struck almost speechless, but not quite. [LB1015]

SPEAKER SCHEER: And you have one minute. [LB1015]

SENATOR CHAMBER: You said one minute? [LB1015]

SPEAKER SCHEER: One minute. [LB1015]

SENATOR CHAMBERS: I'm going to see if Senator Briese can pull this off. And I would like to make Senator Briese a wager if he will yield. [LB1015]

SPEAKER SCHEER: Senator Briese, would you yield one more time? [LB1015]

SENATOR BRIESE: Yes, I'll yield. [LB1015]

SENATOR CHAMBERS: Senator, I bet you don't get this bill moved off General File today. [LB1015]

Floor Debate
April 03, 2018

SENATOR BRIESE: What was that again? [LB1015]

SENATOR CHAMBERS: I'll bet you will not get this bill moved off General File today or off General File this session. [LB1015]

SENATOR BRIESE: I learned long ago not to take wagers with you, Senator. [LB1015]

SENATOR CHAMBERS: Thank you. That's all I have, Mr. President, this time around. [LB1015]

SPEAKER SCHEER: Thank you, Senator Chambers, Brewer, and...Senator Quick, you're recognized. [LB1015]

SENATOR QUICK: Thank you, Mr. President. I guess right now I suppose I would support Senator Chambers' bracket. This bill...and, you know, one of the things I've learned since I've been here is that I brought LB181 last year. And so if there's a bill that you think might help an employee, it's harder to get passed than if there's one that's going to benefit the employer. So that's one of the things I've learned. And actually, this year I passed over my LB181 because I had worked with people on both sides of the issue. And what we found out is that maybe we could work together to benefit both sides by creating education for both the employers and the employees and also trying to make some of the paperwork easier for the employees so they understand their rights. I can tell you that there are a lot of employers out there that don't understand all the rules and regulations of work comp. It's a really...it's pretty difficult to understand. Some of these companies have...they either don't have an HR department or they have a smaller HR department and those issues are handed down. And if they don't have an HR department, it's going to be the general manager or the owner of the company who has to oversee that. And I can tell you they don't probably have time with running their day-to-day business to understand all the rules and regulations that go along with that. I can tell you...I know Senator Hansen was talking about what workers are actually worried about. And I can tell you from someone who's been injured on the job, what you're really worried about is missing time from the job. You don't want to be gone from that work. You don't want to be...you don't want to be hurt. It's painful. It's hard on your family. And it's hard on your paycheck. You don't make as much money when you're on work comp. And so those employees actually suffer because of that and really don't want to be gone. I don't know how much it goes on anymore, but it used to be...and I think it does still happen in some job sites where they either reward you or punish you for being hurt on the job. So they'll have a practice where they'll say so many days without a workplace injury, we're going to have a chili feed, or the management is going to put on a meal for you. And so that really puts workers in the spot where they don't want to report some of the workplace injuries, which is, really doesn't benefit the company either because then they can't fix

Floor Debate
April 03, 2018

some of the things that happen to them, you know, fix some of the...either the equipment or fix some of the things that employees are doing so that they're getting hurt, and so it doesn't help either side with those issues. And then also, you've had some places that actually punish the worker for having a workplace injury where they'll try to actually terminate their position. And even on...when some employees have been on work comp, some employers have ended up, in the end, that employee has lost his job, which isn't...and it's mainly because that employee doesn't understand his rights. He probably didn't understand you could hire an attorney to fight that. And I can tell you that in some of these rural areas, there are no work comp attorneys anywhere close to where they live. I think even in Grand Island, I don't know of any work comp attorneys there. I think you'd have to go to Lincoln or Omaha to find someone who understands work comp law and the rights that you would have...that you can work under. I can tell you that when I ran for Legislature, I wanted to be a voice for working people. I mean, that's why I ran because I figured we don't get a voice down here very often. And work comp is one of the issues that I wanted to try to help with. [LB1015 LB181]

SPEAKER SCHEER: One minute. [LB1015]

SENATOR QUICK: And I've heard from people who have...one gentleman called me; he had been hurt on the job. His employer had paid for some of the injuries out of his own pocket, the employer had, so he didn't have to report the work comp claim. And as it went along, then all of a sudden he found out it was going to be...it was a back injury, so he found out it was going to cost more than he could actually afford. So I believe they did file a work comp claim at some point. And then from there, it went to...he just couldn't work anymore, I mean, he couldn't do the type of work that the employer required of him. And, you know, I only heard one side of the story there but he didn't... [LB1015]

SPEAKER SCHEER: Time, Senator. [LB1015]

SENATOR QUICK: Thank you, Mr. President. [LB1015]

SPEAKER SCHEER: Thank you, Senator Quick. Senator Murante, you're recognized. [LB1015]

SENATOR MURANTE: Thank you, Mr. President; members, good afternoon. I rise in support of LB1015, the Government Committee amendment, and in opposition to Senator Chambers' motion to bracket the bill. LB1015 is a good bill. What it provides is a degree of confidentiality for employees who are injured in the workplace. And that's a good thing. And the question isn't whether those employees have the legal prowess to answer these legal questions on their own; the question is, do they have sufficient information to go find an attorney if they so choose, if

Floor Debate
April 03, 2018

they want one? And I think the answer to that question is unquestionably yes. You can't turn on the television without hearing a mesothelioma commercial, you can't open up a phone book without seeing various forms of trial lawyer advertisements out there. The ability to get access to an attorney is more prevalent today than it ever has been. The question now is, should we use those public records to inundate people who have been injured on the job with advertising to trial attorneys; I think that's wrong. And I think that this is a good Government bill that really protects both workers and employers, and that's a good thing. And with that, I'll yield the balance of my time to Senator Briese. [LB1015]

SPEAKER SCHEER: Senator Briese, 3:30. [LB1015]

SENATOR BRIESE: Thank you, Mr. President. Thank you, Senator Murante. I want to address a couple things that were brought up here. A couple senators suggested that workers simply don't support this legislation. Well, all I have to go by is what I heard at the hearing, and it was clear from what I heard at the hearing that the workers, the rank and file, support this legislation. And I'm not going to...others may want to try it, but I'm not going to impugn the integrity or the motives of those four individuals that testified, but that's what they said. Others have suggested...or said workers are not going to be reluctant to report injuries because of the fact that these first reports are made public. Well, that's not what the workers testified at the hearing. They said they are...some said they are reluctant to report those injuries because of that. As far as Senator Harr's AM2590, that sounds like a bill for another session. We're not talking about that issue here. We're not comparing apples to apples when we bring that in here. What we're talking about here are medical issues, their privacy concerns at stake here. Someone else suggested that employees generally don't know their rights, but we're not giving employees enough credit. A lot of those employees know their rights better than you or I do. And notwithstanding what Senator Chambers says, there really was no testimony suggesting that because of a bill like this, workers would be unrepresented in the event of an injury. I do note that 37 states have some sort of restriction on this information, including several of our surrounding states. Some have outright confidentiality. Some work this into public records laws. Some use a balancing test, balancing the privacy of the employee with the need. And I note that our unemployment insurance statutes found at 48-612 and 48-612.01 require communications involving the discharge and the unemployment insurance, those items are confidential. I would submit that first reports of injury which contain some measure of health information are more sensitive than those unemployment insurance communications and deserving of protection. And this isn't like a phone book or any other public documents or anything that innocuous, this is medical history and information coupled with identity and future prospective employers have access to this. And there's a perception this can be used to the disadvantage of the employee with one employee testifying that, quote, it might contribute to me not getting another job somewhere. And the rank and file does not want that to occur. And rank and file indicated they didn't want fliers from the lawyers, it made them angry. One employee testified, quote, it just kind of added insult to injury for me

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

Floor Debate
April 03, 2018

and made him, quote, very upset, unquote. And there was testimony that employees wanted their privacy protected saying, quote, what's going on with my personal health, between myself and my employer, to me that's overstepping privacy boundaries in my opinion. And there was no testimony that employers need this invasion of privacy or that it really benefited them in any way. There was testimony they can get information on social networks. An employer testified they give every employee a pamphlet detailing Nebraska's rights and responsibilities and who to contact. And another employer testified as to similar information. [LB1015]

SPEAKER SCHEER: Time, Senator. [LB1015]

SENATOR BRIESE: Thank you, Mr. President. [LB1015]

SPEAKER SCHEER: Thank you, Senator Murante and Senator Briese. Senator Chambers, you're recognized. [LB1015]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I haven't heard Senator Briese get this exercised about anything, so I'd like to ask him a question or two. [LB1015]

SPEAKER SCHEER: Senator Briese, would you please yield? [LB1015]

SENATOR BRIESE: Yes. [LB1015]

SENATOR CHAMBERS: Senator Briese, do you know what the letters AFL-CIO stand for? [LB1015]

SENATOR BRIESE: Oh, I could come up with most of it, but not every word. [LB1015]

SENATOR CHAMBERS: Do you know that they designate an organization? [LB1015]

SENATOR BRIESE: Yes, I do. [LB1015]

SENATOR CHAMBERS: And what is the organization dealing with? [LB1015]

SENATOR BRIESE: Workers. [LB1015]

Floor Debate
April 03, 2018

SENATOR CHAMBERS: And do you think they're interested in the welfare of the workers? [LB1015]

SENATOR BRIESE: One would hope they would be. [LB1015]

SENATOR CHAMBERS: But you don't think they are necessarily? [LB1015]

SENATOR BRIESE: I wouldn't always guarantee that, no. [LB1015]

SENATOR CHAMBERS: Is the chamber of commerce interested in the welfare of workers at all? [LB1015]

SENATOR BRIESE: One would hope they would be. [LB1015]

SENATOR CHAMBERS: Have you seen any evidence of that? [LB1015]

SENATOR BRIESE: Well, this particular bill, to the extent the chambers' interest and the workers' interest meshes here, yeah, in this situation, they would be. [LB1015]

SENATOR CHAMBERS: Thank you. Members of the Legislature, Senator Briese is behaving like a lawyer now, although he's not on retainer. He knows that the AFL-CIO is the labor union. He knows that it works to try to get better working conditions, higher wages, better pension, all of the things that can make a life better for workers, and these organizations he's representing work against the workers. So what we're going to find out today is if they got 33 votes. If they don't have 33 votes, then they may as well pack it in. If it weren't for the fact that I like Senator Briese, I'd be much more harsh in my criticism of this bill. I actually do like him, youngster. But there was something I wanted to mention today earlier that took place. And I may as well talk about anything because I'm going to make sure this thing goes to cloture. And I have other issues that I'll bring up. But somebody mentioned the year 1937 and indicated that that meant a statue had been in place for 85 years. I was born in 1937. And somebody cheated me out of five years because I'm just 80. So that says something about education, maybe. I don't know. But I didn't have the opportunity to deal with it at that time because we were on a serious matter. I can talk about anything on this bill because this bill doesn't make sense. This is like Jesse James saying he's interested in more law enforcement. Frank James says he wants automatic sensors on trains to let him know when a robber is on the train. These are the robbers who have no interest in the welfare of workers at all. If they were interested in the workers, they wouldn't come down and speak against every bill for workers. When I see Hallstrom and Sedlacek, I think of Jesse James and Frank James and in my mind, because dead people apparently are conscious of what happen,

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

Floor Debate
April 03, 2018

I apologize to Jesse and Frank for putting them in league with Sedlacek and Hallstrom. At least Jesse and Frank were making an honest living as robbers, everybody knew what they were. You ask somebody in that day, what does Jesse James do? He robs banks. What does Frank do? He robs trains. Hallstrom and Sedlacek, those kind of lobbyists fly false flags. They come here pretending they're for workers. They're not for workers. I have been on too many committees where they have come and expressed positions and opposition what would benefit... [LB1015]

SPEAKER SCHEER: One minute. [LB1015]

SENATOR CHAMBERS: ...not just workers, but ordinary people. Now, Senator Briese hasn't been around here very long. He doesn't know the pedigree of some of these lobbyists. And I suppose lobbying can be an honest profession depending on how you comport yourself. But these two, I know whenever they come up, they're going to be against anything that would benefit workers or poor people, anything. One represents bankers all the time...represents bankers. And as Senator Williams and I joke sometimes, the banks will give you a loan if you can prove to them you don't need it. Then they'll give you an umbrella when the sun is shining, then when it rains, they want to take it back. That's the way they operate. Hallstrom defends that. Sedlacek defends these businesses that don't want to pay a decent wage. Cheat single mothers who are working. Cheat those people who work as waitresses and waiters dealing with the public, and it's extremely difficult dealing with the public. [LB1015]

SPEAKER SCHEER: Time, Senator. [LB1015]

SENATOR CHAMBERS: Thank you, Mr. President. [LB1015]

SPEAKER SCHEER: Thank you, Senator Chambers. Senator Briese, you are recognized. [LB1015]

SENATOR BRIESE: Thank you, Mr. President. And Senator Chambers brought up the issue of the AFL-CIO and their interest in protecting their workers and would always have the best interest of the workers at heart, it would seem that way and I'm sure that they do. But I've perused the testimony of the representative of the AFL-CIO at that hearing a couple times here, and I really fail to see any compelling evidence that what we're talking about here is necessary to preserve and protect the rights of the workers. To me, it looks like kind of conclusory statements and kind of speculative as to...at one point said you really have to be careful when you start to consider these factors. I highlighted that part there, but there was no...nothing really there very compelling. No examples brought forth by that representative as to how the current framework protects workers and how changing the framework would be to the detriment of workers. To me, that was fairly telling. And claiming that employees need this information is not giving

Floor Debate
April 03, 2018

employees enough credit. These employees know their rights, as I said before, better than you or I do. They see ads. They hear word of mouth with fellow employees. There's a compensation court hotline. There's pamphlets distributed to employees, social media, family lawyers that can send them in the right way. Employees are capable of discerning their rights, and to suggest otherwise is simply not giving them the credit they deserve. And from the testimony, it was clear that rank and file doesn't want this information disclosed. They don't want employers browsing this information. They don't want an avalanche of letters. And I do note that there was an employee in the Capitol here that indicated she was injured a few years back and she received scam telephone calls at some point after that. And she was fairly confident that the information that scammer obtained to scam her was from the public employer...or the public records with the compensation court. And beyond that, at the hearing there was no testimony suggesting a compelling need for disclosure of this information. There was no evidence that a lack of disclosure will result in any harm to any employees. Any suggestion to the contrary is purely speculative. This bill balances the need for protecting the privacy rights of individuals with the need for this information in a limited set of circumstances. And much of what we do in this body involves balancing competing interests, weighing competing interests, and this bill is a good balance of those competing interests. Thank you, Mr. President. [LB1015]

SPEAKER SCHEER: Thank you, Senator Briese. Senator Hilger...I do not see Senator Hilgers. Senator Schumacher, you are recognized. [LB1015]

SENATOR SCHUMACHER: Thank you, Mr. Speaker, members of the Legislature. I've got a pretty good view here. I can see Senator Chambers, and I can see Senator Briese, and they're both within my field of vision at the same time. And I see Senator Briese and Rottweiler Chambers coming after him. And he's laying there looking up at the Rottweiler, and he's saying, "but I'm a human being!" So I'm going to give him a little help at least. What is kind of bad about the issue being raised is I don't see it as necessarily business versus the worker. It's kind of...there's a lawyer in the middle of all this. And one of the bad things that's happened to the legal profession in the last 30 years or so is they've opened the gates to advertising. And they've probably made a few too many lawyers for a little state like Nebraska. And so what people have tended to do is go look through these logs to find potential clients and to solicit them. And they also go down to the cop shop and they look at the accident records, and they find a whole list of people who have had accidents and they solicit them; and they run the ads on TV and it's kind of lowered the class of the profession quite a bit. The insurance companies in this state are pretty sharp. And they have some bean counters that have figured out just how little they can give so that the injured person comes out better than if they would have hired a lawyer in most cases. And so I think when folks are solicited, they're pressured to hire a lawyer, which in many cases won't do them a whole lot of good because a lawyer is going to want to take a third. So they get 20 percent more, they'll take a third or whatever the agreed fee is. The bar association makes information available to people on their Web site, local attorneys make information available,

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

Floor Debate
April 03, 2018

and as to who practices workmen's comp law. And it's not a big secret. If you want a lawyer, you can find one. And most folks probably understand that if they are being jacked around, or feel they're being jacked around by the insurance company, they know where to find a lawyer. And quite frankly, I think the same rule should apply to the folks going down at the police station who look at the accident records to find out who they can send soliciting material to. So this bill is not a black-and-white bad bill. It is a bill that tries to deal with the problem of people's privacy being exposed, of their relationship with their employer being exposed. And in some respects, I'd have a hard time being against this bill while arguing against the bill like we had a couple days ago where private clubs can keep their membership lists secret. There's a certain right to privacy. And somehow in all of this, and maybe it's by amendments to this bill, that right to privacy should be preserved. Thank you. [LB1015]

SPEAKER SCHEER: Thank you, Senator Schumacher. Senator Chambers, there's no one left in the queue. Would you like to use this as your close? [LB1015]

SENATOR CHAMBERS: Yes, I will. I'd like to say at this time, because Senator Briese has argued so valiantly, a few words on behalf of Senator Briese. Thank you, Mr. President. [LB1015]

SPEAKER SCHEER: Thank you, Senator Chambers. The question before us is the adoption of the bracket till 4-18-18. All those in favor, please vote aye; all those opposed vote nay. Have all voted that wish to? Please record, Mr. Clerk. [LB1015]

CLERK: 12 ayes, 15 nays, Mr. President. [LB1015]

SPEAKER SCHEER: The motion fails. Per the request of the introducer, we will pass over this bill and move to the next item on the agenda. Mr. Clerk. [LB1015]

CLERK: Mr. President, LB670. It's a bill originally introduced by Senator Krist. (Read title.) The bill was introduced on January 3, referred to the Judiciary Committee, the bill was advanced to General File. I do have Judiciary Committee amendments, Mr. President. (AM2093, Legislative Journal page 813.) [LB670]

SPEAKER SCHEER: Thank you, Mr. Clerk. Senator Krist, you're welcome to open on LB670. [LB670]

SENATOR KRIST: Thank you, Mr. President. Good evening, Nebraska, or I guess good late afternoon. LB670 relates to the amending and streamlining of the Juvenile Services Act. It would

Floor Debate
April 03, 2018

change provisions relating to the membership, to the powers, the duties of the Nebraska Coalition for Juvenile Justice. LB670 would also eliminate the position of coordinator for the Nebraska Coalition of (sic) Juvenile Justice, harmonizes provisions, repeal original sections, and outright repeal Section 43-2413. Because an emergency clause is declared on this bill, this act would take effect when passed and approved according to the law. As the Clerk has stated and the Speaker will again reiterate, there are some committee amendments that join a few of our priority bills from Judiciary on to LB670, and I'm proud to be able to carry that. And thank you to Senator Ebke for her leadership in putting this package together. With regard to LB670, I would only make one other comment. This letter is from Cassandra Blakley, who is the Nebraska Coalition for Juvenile Justice chairperson, in testimony at the hearing. I quote: My name is Cassandra Blakley. I come before you as the current chairperson of the Nebraska Coalition of (sic) Juvenile Justice, the NCJJ, to voice my support of LB670. This legislation contains straightforward changes to the structure of NCJJ. As such, my testimony will be equally brief. I am going to make a copy of this and distribute it to all of you so that you have a copy for your records. And it is very complimentary of the work that this bill would purport to do. And I have to be honest with you, this came from the NCJJ so it was a streamlining of their efforts and their structure. With that, I would yield the balance of my time back to the Chair. [LB670]

SPEAKER SCHEER: Thank you, Senator Krist. As stated, there are amendments from the Judiciary Committee. Senator Ebke, you're welcome to open. [LB670]

SENATOR EBKE: Thank you, Mr. Speaker. Good afternoon again, colleagues. AM2093 to LB670 is a white copy amendment that replaces the original bill and includes a package of bills that focus on juvenile law and issues...juvenile law issues. In prioritizing LB670 and the bills included in the package, it was my and the committee's intent that these bills represent noncontroversial changes to improve various aspects of juvenile law. None of the bills included in the package received opposition testimony during public hearing. AM2093 consists of five bills, and I'll briefly address each in turn. LB670, as explained by Senator Krist, makes adjustments to the structure and duties of the Nebraska Coalition for Juvenile Justice. The bill was presented at hearing and received no opposition testimony. The Judiciary Committee advanced LB670 on a vote of 8 to 0. LB516 is a carryover bill that was introduced by Senator Pansing Brooks last year. The bill makes technical changes to clarify the necessary contents of certain reports on juvenile facilities already required under Nebraska law. The bill received no opposition testimony at hearing and was advanced from committee on a vote of 7 to 0 with 1 member absent. LB774 was also introduced by Senator Pansing Brooks. The bill makes an adjustment to laws governing how law enforcement officers interact with juveniles, to remove a requirement that a juvenile under the age of 11 be taken to the Department of Health and Human Services. Instead, the bill would allow officers to make contact with a juvenile and, when appropriate, to release the juvenile to his or her parents to avoid DHHS. The bill received testimony in support from the Omaha Police Department, the Omaha City Council, the bar

Floor Debate
April 03, 2018

association, and Voices for Children. It advanced on a vote of 7 to 0 with 1 member absent. LB673 was introduced by Senator Krist and seeks to eliminate a requirement that certain juvenile hearings be held before an impartial judge. LB673 was supported by the bar association and received no opposition testimony at hearing. Finally, I would note that LB708, introduced by Senator Bolz, is a bill included in AM2093 but was also selected by the Speaker for inclusion on the consent calendar. LB708 was advanced to Select File and because that bill has been moving along separately, I have talked to Senator Bolz and she has agreed with my plan to offer an amendment on...an amendment to LB670 on Select File that would remove the portions of the bill that duplicate the work being done with LB708 on consent calendar. That amendment is in process. It will be filed on Select File. As debate begins on LB670, I'm happy to answer any questions you might have about the various pieces of the package, but I would also refer you to each of the bills' introducers to provide a more comprehensive response about the intent of each bill or about the origin for each proposal. On behalf of the Judiciary Committee, I ask for your green vote on AM2093 and LB670. I would also just say that I understand that Senator Vargas is introducing an amendment which would add an additional bill on to this, on to this package. The bill he is referring to, that he would be replacing, would be a bill that was heard in committee and was advanced without opposition as well. As we were putting the package together, the timing just didn't work out for that to be part of the package. And we had already reached our limit of five on this particular priority legislation. So with that, thank you, Mr. Speaker. [LB670 LB516 LB774 LB673 LB708]

SPEAKER SCHEER: Thank you, Senator Ebke. Mr. Clerk for amendment. [LB670]

CLERK: Senator Vargas would move to amend, AM2714. (Legislative Journal page 1318.) [LB670]

SPEAKER SCHEER: Senator Vargas, you're welcome to open on AM2714. [LB670]

SENATOR VARGAS: Thank you very much, President. Good morning, sorry, good afternoon, colleagues. AM2714 is LB826, which I introduced this year to enact necessary clarifying language for state court judges. I'd like to thank Senator Krist and Senator Ebke for allowing me to add this on to this bill. AM2714 reinforces existing state law that grants state court judges the jurisdiction and authority to make factual findings regarding abused, abandoned, and neglected children in the context of findings related to the best interest of a child. I'll give you all the same brief general background on the issue as I gave the committee, as it's a fairly specific part of law. Congress originally established the ability for judges to make findings, outlined in AM2714, in the 1990 Immigration Act. In 2008, the Trafficking Victims Protection Reauthorization Act reaffirmed this ability. And in 2009, the Nebraska Court of Appeals held, in In re Luis G., that juvenile courts have the jurisdiction and authority to issue orders related to whether a child has

Floor Debate
April 03, 2018

been abused, abandoned, or neglected, and whether it would be in the best interest to be returned to his or her country of nationality. Unfortunately, there have been an increasing number of occasions when some judges have resisted making the necessary court findings due to a mistaken belief that they lack the authority to do so. Other judges chose not to make findings, even when requested, because they are not required to do so. Neither of these reasons are legitimate or lawful. The intent of AM2714 is to clarify in statute the authority these judges already possess and to ensure that these findings are made when they are requested. LB826 was advanced out of Judiciary Committee on a 7-0 vote with 1 senator absent. The bill was supported by two law professors, from Creighton University and the University of Nebraska, as well as the Nebraska Bar Association who testified specifically to the need for this clarifying language for state court judges. There were no neutral or opposition testimony at the hearing and the bill has no fiscal impact. Colleagues, you should also have a one-pager in front of you that was distributed and this is a little bit more information on LB826, the amendment, AM2714. I would like to thank again Chairperson Ebke for supporting the bill in committee and for being open to this amendment to LB670, as well as Senator Krist. Be happy to answer any questions at this time. Thank you. [LB670 LB826]

SPEAKER SCHEER: Thank you, Senator Vargas. Seeing no one wishing to speak to the amendment, Senator Vargas, you're welcome to close on your amendment. He waives closing. The question before us is adoption of AM2714. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB670]

CLERK: 28 ayes, 0 nays on adoption of the amendment to the committee amendments. [LB670]

SPEAKER SCHEER: AM2714 is adopted. Seeing no one wishing to speak, Senator Ebke, you're welcome to close on the committee amendment. She waives closing. The question before us is adoption of AM2093. All those in favor please vote aye; all opposed vote nay. Have all voted that wish to? Please record. [LB670]

CLERK: 30 ayes, 0 nays on adoption of committee amendments. [LB670]

SPEAKER SCHEER: AM2093 is adopted. Senator Krist, you're welcome to close. He waives closing. The question before us is adoption of LB670. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB670]

CLERK: 35 ayes, 0 nays, Mr. President, on the advancement of LB670. [LB670]

SPEAKER SCHEER: LB670 is advanced to E&R Initial. Next item, Mr. Clerk. [LB670]

Floor Debate
April 03, 2018

CLERK: LB1120 is a bill by Senator Larson. (Read title.) Introduced on January 18, referred to the General Affairs Committee, the bill was advanced to General File. There are committee amendments, Mr. President. (AM2545, Legislative Journal page 1104.) [LB1120]

SPEAKER SCHEER: Thank you, Mr. Clerk. Senator Larson, you're welcome to open on LB1120. [LB1120]

SENATOR LARSON: Thank you, Mr. President. And I'll open specifically on the committee amendments as well at this time. LB1120 contains a number of provisions originally related to the Nebraska Liquor Control Act. The committee amendment strikes all of those provisions, except for the Music Licensing Agency Act, which is the provision that my introduction will focus on. The Music Licensing Agency Act would provide protections for any venue that hosts live music performances and are being aggressively contacted by agencies claiming to hold copyrights to the music being performed and demanding a licensing fee. This act is simply intended to stop Nebraska businesses from being harassed by providing necessary consumer protections. Here are the details of the act. One, the act requires music licensing agency to register and file annually by February 15 with the Department of Revenue an electronic copy of each variation of the performing rights agreement providing for their payment of royalties made available for a music licensing agency to any proprietor within Nebraska. There is a \$10,000 late fine for each 45-day late period with the committee amendment changes to a fine. The act requires a music licensing agency to provide a list of members and affiliates it represents and a catalog of its music licenses. Seventy-two hours prior to a contract extension, the proprietor or his or her employees receive in writing a schedule of the rates and terms of royalties under the contract and a notice that the proprietor is entitled to the information filed with the Department of Revenue, pursuant to Section 14 of this act. A contract for the payment of royalties executed in Nebraska shall be in writing, be signed by the parties, and include at least the following information: (a) the proprietor's name and business address; (b) the name and location of each place of business to which the contract applies; (c) the duration of the contract; and (d) the schedule of rates and terms of the royalties to be collected under the contract, including the sliding scale or schedule for any increase, decrease of those rates for the duration of the contact (sic). Five, when making a contract with the proprietor, the music licensing agency agent or representative must identify himself or herself and disclose whom she is representing and why they are on the premises. Six, the agent or representative shall not: (a) use obscene, abusive, or profane language; (b) communicate at the proprietor's place of business during business hours unless authorized by the proprietor; (c) substantially disrupt the proprietor's business; use or attempt to use unfair deceptive acts or practices in negotiating with the proprietor; or (d) communicate with the proprietor once the agency has received written notice that all further contact will be through the proprietor's attorney unless the attorney fails to respond within 60 days. Seven, the Department of Revenue is responsible for notifying proprietors of their rights and responsibilities. Eight, music licensing agencies may still conduct investigations to

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

Floor Debate
April 03, 2018

determine music used by the proprietor or informing the proprietor of his or her obligations under the United States copyright law. Nine states that multiple violations on a single day may be considered separate violations. During the drafting of this bill, the Fiscal Office discovered that such music agencies are required to pay a 3 percent tax on the business they conduct in Nebraska but that only one agency is currently paying this tax. The fiscal note states that the collection of this tax from other agencies would mean an estimated \$100,000 in additional revenue. Finally, the committee amendment strikes the severability and emergency clause. It's my understanding that Senator Thibodeau will have an amendment to my committee amendments coming up. I'll let her describe that. Her amendment is a reasonable compromise moving forward and I enjoy the...will enjoy the discussion. Thank you, Mr. President. [LB1120]

SPEAKER SCHEER: Thank you, Senator Larson. Mr. Clerk, there is an amendment to the committee amendments? [LB1120]

CLERK: There is, Mr. President. Senator Thibodeau would move to amend with AM2784. (Legislative Journal page 1373.) [LB1120]

SPEAKER SCHEER: Senator Thibodeau, you're welcome to open on AM2784. [LB1120]

SENATOR THIBODEAU: Thank you, Mr. President. Thank you, colleagues. I'm offering an amendment to the committee amendment that does the following things. The first is this amendment would provide the Liquor Control Commission with the means to license and regulate bottle clubs. The bottle club language in this amendment would create a new license with a \$300 application fee, which is the current cost of other licensing fees. Because they are private clubs, they would be allowed a closing time of 5:00 a.m. This license would prevent the bottle club licensee to hold any other license under the Nebraska Liquor Control Act. This would ensure that a bar or nightclub would not be able to convert over to a private bottle club in order to get past the current 2:00 a.m. closing time. The private membership list would not be subject to disclosure, except as required by court order or warrant or subpoena. Similar language was introduced as part of last session's liquor omnibus bill which was passed unanimously by this body, which is sitting on Select File and stopped moving forward over a separate unrelated provision. I introduced LB747 this session, and that's what this...part of what this amendment is addressing. The second part is the amendment clarifies that only the fees for beer shippers' licenses are to go to the Nebraska Beer Industry Promotional Fund. The State Auditor's November 16, 2017, report noted a perceived conflict in statute regarding where the different shippers' licenses fees were to be deposited. This provision in LB1120 clarifies the Legislature's intent that only the beer shippers' license fees were to go to the Nebraska Beer Industry Promotional Fund. This provision was originally in LB1120. Third, this amendment allows Class C licensees with a bottling endorsement to increase the size of their growlers from 32 ounces to

Floor Debate
April 03, 2018

64 ounces. Keep in mind that this current limitation in growler size applies to Class C licensees with a bottling endorsement and not craft brewers. This provision was originally in LB1120 with no opposition. This amendment...the fourth portion to the amendment allows a party to apply for a rehearing when an application is denied. Under current law, parties may apply for a rehearing of certain commission actions, and this provision would include the denial of an application as one of those actions. This provision was also originally in LB1120. I have discussed this amendment with Chairman Larson today. He does consider it a friendly amendment. However, since filing it, a few problems have come to my attention. The enforcement mechanism for the bottle club licensing, there is no mention to enforcing it. There's no penalty for noncompliance and there's nothing that would, at this point, change anything or put any teeth into the LB747. As you all remember and as we discussed last week, this is very important as this invites sex trafficking. These clubs that are operating as bottle clubs are inviting sex trafficking. Because of these issues that were just brought up, I would like to continue to work with Senator Larson, as he has been very open to discussion. But I think we need to pull this amendment for now. So, Mr. President, at this point I am pulling this amendment so that we can work on it further. I do support the underlying LB1120 for music licensing. Thank you. [LB1120 LB747]

SPEAKER SCHEER: AM2784 is withdrawn. Senator Thibodeau, would you please approach? Senator Thibodeau, I understand you have decided to go ahead and leave the amendment as filed? [LB1120]

SENATOR THIBODEAU: Yes. Thank you, Mr. President. And after just discussing with Senator Larson right now, it's imperative that we do put the amendment on now. He has agreed to make sure...okay. Okay. He has agreed to make sure...Senator Larson, would you yield to a couple of questions? [LB1120]

SPEAKER SCHEER: Senator Larson, would you please yield? [LB1120]

SENATOR LARSON: Yes. [LB1120]

SENATOR THIBODEAU: Okay. So as we were up there speaking, you were explaining that it needs to come on now, and on Select File you have agreed to make sure we have the enforcement mechanisms in place and that there will be a penalty for noncompliance. [LB1120]

SENATOR LARSON: Yes. So currently under law, there's a current catchall provision that does offer enforcement, but I'm willing to put specific enforcement here as well to ensure that your concerns are worked through. So there will be the broad catchall as well as specific enforcement on this amendment. Do you mind if I explain why it has to come on, on General File instead of Select File? [LB1120]

Floor Debate
April 03, 2018

SENATOR THIBODEAU: Yes, please explain. Thank you. [LB1120]

SENATOR LARSON: So essentially, colleagues, for Senator Thibodeau to pull AM2784 now, which deals with the liquor statutes, if we were to pass AM2545, the General Affairs Committee amendment, it would close those liquor statutes. By closing those liquor statutes, anything done on Select File would no longer be germane and open the state back up to a lawsuit. So if we want to keep the liquor statutes open, you have to do it now on General File on the committee amendment. Once the committee amendment goes away, it's no longer germane. [LB1120]

SENATOR THIBODEAU: Thank you, Senator Larson, for your explanation. And again, I do appreciate you working with me on this bill. I just want to make sure that we do get it to Select in its proper form. The rest of the items in the amendment I do feel comfortable and confident with. I have spoken with all parties involved. Liquor Commission is okay with the rest of the amendments. And I know last year many people were concerned that maybe something would go towards the craft brewers. That is not in any...in this amendment as well. So I appreciate your consideration. And again, Senator Larson, I appreciate your help. Thank you. [LB1120]

SPEAKER SCHEER: Thank you, Senator Thibodeau and Larson. Senator Krist, you're recognized. [LB1120]

SENATOR KRIST: Thank you, Mr. President. Still late afternoon, good late afternoon, Nebraska. I understand that, in the spirit of compromise and also to avoid a germaneness issue, that AM2784 is best left here, and between General and Select can be spoken to. But I hope Senator Thibodeau is listening to what I'm about to say, because we had an agreement in Exec that nothing was going to go on here except for LB1120. So as we have this discussion between General and Select, my wish is that the committee would again be able to weigh in on each of the individual items that were added, because this is not how it came out of committee. My concern is a technical concern. And I think it can be talked through and with, in terms of advertising funds. But it has been my experience that we are not restricting the wine growers in the way that we are now restricting the beer industry. And if I'm wrong then we'll find that out in Exec. But I think this negotiation needs to be broader than just you, Senator Thibodeau, and Senator Larson. I understand your passion and I share that passion for the bottle club and the restrictions that we would put on them. But my vow is that between General and Select I would like to work on this as well and make sure that what we're doing here is true to the promise that we made, we all made when it came out of Exec. Thank you, Mr. President. [LB1120]

SPEAKER SCHEER: Thank you, Senator Krist. Senator Larson, you're recognized. [LB1120]

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

Floor Debate
April 03, 2018

SENATOR LARSON: Thank you, Mr. President. And as I said, there is a catchall in the liquor statutes when it comes to enforcement policy, so technically that would already be covering the new bottle club license. But, as I said on the mike, if we want specific enforcement to this new liquor license, I'd be happy to do that. Real quick, responding, we are not restricting the beer fund any more than the wine fund right now. What I think what Senator Krist may be a little off on is this is essentially going off the Auditor's report that said only the beer shipping licenses, money from the beer shipping licenses go to the Beer Promotion Industry Fund; has nothing to do with restrictions on how the fund is used. That was in the original LB1120, but that is not in this committee amendment. The committee amendment just says that only...the Auditor's report specifically said that the statute wasn't clear and they thought that all shipping license money would go to the Beer Promotion Industry Fund. That's wasn't the intent of the Legislature at the time. It was the intent just the money from the beer shipping licenses fund...or shipping licenses would go to that fund. That's what this does. It doesn't restrict it any more. It doesn't change the duties of the Beer Promotion Board or anything of that nature. It just clarifies, in statute, what the intention was in 2015, I think, or '16 and moves forward with that. And, like I said, I'm sure Senator Thibodeau and I will work on the enforcement between now and Select. I have a shell amendment sitting there on Select File already in anticipation that I will substitute on...substitute for and put whatever we come to in terms of enforcement. Thank you, Mr. President. [LB1120]

SPEAKER SCHEER: Thank you, Senator Larson. Senator Schumacher, you're recognized. [LB1120]

SENATOR SCHUMACHER: Thank you, Mr. Speaker, members of the body. In building a little bit of a legislative record here, which I feel is kind of necessary to do, because I've got a constituent in my district who I think got some state money and some grants and things like that to take an old building and pretty it up to make it a facility where people can have weddings, where they can celebrate graduations, those kind of things for a fee. And he is fairly adamant that he does not want to be considered any kind of a liquor establishment or need a license, largely for insurance purposes and things like that. So will Senator Thibodeau--did I pronounce your name right, Senator--yield to a question? [LB1120]

SPEAKER SCHEER: Senator Thibodeau, would you please yield? [LB1120]

SENATOR THIBODEAU: Yes, I will yield to a question. [LB1120]

SENATOR SCHUMACHER: Okay. Senator, if you read the text exactly...now what we're doing here is kind of building a record as to what intent is, so when somebody interprets this law they have an idea what we meant. A bottle club means an operation that keeps and maintains premises where people who have made their own purchases of alcoholic liquor congregate for

Floor Debate
April 03, 2018

the express purpose of consuming alcoholic liquor upon payment of a fee. So if the express purpose is to conduct events like wedding receptions or watching old movies or things like that, where the consumption of alcohol is incidental to the express purpose, those are not included in this. Is that correct? [LB1120]

SENATOR THIBODEAU: Correct. Those are incidental. [LB1120]

SENATOR SCHUMACHER: So basically you have an express purpose that you say is what the purpose is, and then you can go ahead and consume wine or beer as an incidental to the express purpose. [LB1120]

SENATOR THIBODEAU: Yes, Senator Schumacher, and thank you for your question. What we are addressing here is the businesses that are running as nightclubs, that are bring your, you know, bring your own bottle, I guess, BYOB. It is not addressing, as you, you know, attempted...or asked about your constituent, it would not address bringing alcohol into a hotel room or anything like that. It's anybody can bring alcohol into a hotel room if they so choose. They are not a bring your own bottle club. They are a hotel. [LB1120]

SENATOR SCHUMACHER: So, just so we're clear, so the express purpose, if it's not to drink alcohol, it's something else, then they do not fall within the scope of this legislation. [LB1120]

SENATOR THIBODEAU: Well, I guess that's something we will look at on Select because, based upon the bottle clubs, for instance, in Lincoln, there is...they are a bottle club and they're an ax throwing bar. So I guess if they say that their express purpose is to throw axes and then you can bring alcohol, so I guess that's some of the language that Senator Larson has promised to work with me on between now and Select. [LB1120]

SENATOR SCHUMACHER: So is this...if the express purpose is a wedding party throwing club, how are we going to distinguish between that club and an ax throwing club? [LB1120]

SENATOR THIBODEAU: Well, I do remember when I got married we had to apply for a special designated license. So I would assume that weddings would fall under that. [LB1120]

SENATOR SCHUMACHER: Okay. But this does not cover the situation which I described where the express purpose of getting together is something other than drinking alcohol. [LB1120]

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

Floor Debate
April 03, 2018

SENATOR THIBODEAU: You know, I think you're getting into the weeds there, Senator Schumacher. This is addressing a bring your own, a business that is based upon the foundation that you bring in your own alcohol. So if the business model is not such that it's you bring in your own alcohol, then this bill is not going to affect those businesses. [LB1120]

SENATOR SCHUMACHER: So if the business is something else then this bill does not affect you. [LB1120]

SENATOR THIBODEAU: Correct. [LB1120]

SENATOR SCHUMACHER: Thank you. [LB1120]

SPEAKER SCHEER: Thank you, Senator Schumacher and Thibodeau. Senator Thibodeau, you're recognized. [LB1120]

SENATOR THIBODEAU: Thank you, Mr. President. Senator Larson, as we've been talking and were talking about doing things between now and Select, could you yield to one more question for me, please? [LB1120]

SPEAKER SCHEER: Senator Larson, would you yield, please? [LB1120]

SENATOR LARSON: Yes. [LB1120]

SENATOR THIBODEAU: So as we are looking...if we are creating a new license under the Liquor Commission, this would not be a retail liquor license or it would be a retail liquor license? [LB1120]

SENATOR LARSON: It's not a retail liquor license because it is not selling alcohol. It is its own type of license in order to give the Liquor Control Commission authority to investigate and have access to the premises, essentially of any place that is a BYOB club. The definition...and that is why it has to be separate versus the other retail licenses. Retail licenses, by definition, sell alcohol. [LB1120]

SENATOR THIBODEAU: Okay. So way back prior to 2004 when bottle clubs were under the control of the Liquor Commission, they were not referred to as retail, were they? [LB1120]

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

Floor Debate
April 03, 2018

SENATOR LARSON: I can find out...I can find out the record. I don't have that information in front of me right now. I'm sorry. [LB1120]

SENATOR THIBODEAU: Okay. So, again, I'll just ask that we sit down and look at this retail versus nonretail between now and Select. [LB1120]

SENATOR LARSON: Yeah. Well, I don't want the bottle clubs to be able to sell alcohol; I don't think you do either. That's why we're not defining them as retail. [LB1120]

SENATOR THIBODEAU: Okay. Well, I thank you for yielding to my questions. I would like to yield the rest of my time to Senator Pansing Brooks, if she's still in here. Thank you. [LB1120]

SPEAKER SCHEER: Senator Pansing Brooks, 3:20. [LB1120]

SENATOR PANSING BROOKS: Thank you, Mr. Speaker. I just wanted to rise in support of Senator Thibodeau and her work to get this bill...or this amendment attached to Senator Larson's bill. And I appreciate the fact that Senator Larson has agreed to this attachment of that bill...or to that bill. I don't know if all of you saw this weekend, but Senator Thibodeau, on Good Friday, were pretty much threatened and intimidated. And I am passing out the pictures of the signs that went up this weekend. And I just would ask that we all be aware that...that we're not going to be intimidated by threats either inside or outside of this body. Our job is to move forward and to be strong and to work for the best and for the most...the best of Nebraskans and to work for the most vulnerable Nebraskans. And the fact that there are indications that many of these bottle clubs are connected to trafficking, just from the testimony of Shane Harrington alone in the hearing, means that we need to go forward and be strong as a body to say that we are not going to allow this. We're not going to be intimidated. This is inappropriate activity. And I feel very strongly that I appreciate the fact that Senator Thibodeau has--and I can pronounce her name--that Senator Thibodeau has been dogged in working to make sure that this bill will come out of committee, that this bill comes before us. And clearly, by what you are seeing right here, it is something necessary. And we are being...when one of us is attacked from outside, I believe that we're all attacked. And we are not...I have a...I joined in...Senator Clements and I joined in on a bullying bill, and so whether by billboard, text, or electronic communication, we refuse to be threatened or intimidated. We're doing our work for the... [LB1120]

SPEAKER SCHEER: One minute. [LB1120]

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

Floor Debate
April 03, 2018

SENATOR PANSING BROOKS: ...state of Nebraska and I believe that we're doing the best work that we can right now. So thank you to Senator Thibodeau for that passion that she has brought to this body. Thank you. [LB1120]

SPEAKER SCHEER: And, Senator Pansing Brooks, I'm assuming you don't want your light then? Thank you, Senator Pansing Brooks. Seeing no others in the queue, Senator Thibodeau, you're welcome to close on AM2784. [LB1120]

SENATOR THIBODEAU: Thank, Mr. President. Again, I want to thank Senator Larson for continuing to agree to work with me on this. Thank you, Senator Pansing Brooks, for standing up. I don't know, maybe next year your anti-bullying bill should be bullying by billboard. Who would have ever thought that would happen? But this just goes to show that we are making a difference. I believe in this amendment. I do know that it does need some changes between now and Select. We have gotten Senator Larson's commitment for that. You have my commitment for the two of us to continue to work together. We have worked fairly hard on this. We have overcome a lot of disagreements to come to this agreement. I appreciate his help. I appreciate the help of many of the other senators that have reached out to me after last week and I believe this entire body feels that this is a very important bill to get across. So I would encourage your green vote on this amendment. Thank you. [LB1120]

SPEAKER SCHEER: Thank you, Senator Thibodeau. Question before us is adoption of AM2784 to AM2545. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB1120]

CLERK: 34 ayes, 0 nays on adoption of Senator Thibodeau's amendment. [LB1120]

SPEAKER SCHEER: AM2784 is adopted. Senator Krist, you're recognized. [LB1120]

SENATOR KRIST: Thank you, Mr. President. And it is good evening now, colleagues and Nebraska. If I'm wrong then I'll get back up and apologize when we get to Select File, but for Senator Pansing Brooks and for Senator Thibodeau this does...this enforcement mechanism that is here right now does not do anything to regulate the issue of human trafficking, because it's tied ordinances, local ordinances, that are tied to liquor licenses, retail liquor licenses. So I want to make sure that that's understood. The amendment that you just passed is adding back in some things that I think that the General Affairs Committee needs again to go over in terms of content. I made that clear on my last time on the mike. But if you think this is doing anything to reinforce human trafficking, it is not enforceable because of the local ordinances that tie it back to...the nudity law back to the retail liquor licenses. And if Senator Thibodeau and Senator Larson, in concocting this agreement, and I applaud them both for sitting down and compromising, if they

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

Floor Debate
April 03, 2018

would have involved the legal counsel and the Liquor Commission that would have been extremely clear to both of them. But not telling us and them and getting that input before...a half an hour before, which is what Mr. Rupe just told me...again, if I'm wrong, I'll apologize on Select File. But there's a lot of work that needs to be done before the intent of this legislation is what Senator Thibodeau thinks it is and would support the trafficking concerns that Senator Pansing Brooks and many of us have. Thank you, Mr. President. [LB1120]

SPEAKER SCHEER: Thank you, Senator Krist. Seeing no one wishing to speak, Senator Larson, you're welcome to close on AM2545. [LB1120]

SENATOR LARSON: Thank you, Mr. President. Colleagues, alcohol policy can enforce liquor licenses. And I will work with Senator Thibodeau to work out an enforcement mechanism when a liquor licensee violates their liquor license. The Nebraska Liquor Commission won't have enforcement over human trafficking. But we can set out enforcement mechanisms when there is a liquor license violation, and that is reasonable and needs to happen. They're not a retail license. They are a BYOB. They won't be able to sell alcohol. It's very clear. So I'm happy to work with Senator Thibodeau moving forward and I think we will work together and we will pass something and there will be enforcement when a liquor violation happens. But that is what the Liquor Control Commission can do, should do, and I'm sure will do. I'd urge...and I'm glad Senator Thibodeau's amendment got on, in terms of not being able to pull it...or pull it off because then it wouldn't have been germane. I think my willingness of helping her in that shows my willingness of getting this done. Had I not wanted it done, I could have let it not go and then there would have been no vehicle for this to get done. So regardless of what anyone says, I think that, in and of itself, shows my willingness to ensure that Senator Thibodeau gets what she needs done. I urge you to vote for AM2545. I'll work with her. As I said, I have a shell amendment sitting there on Select File that I will substitute in, whatever our compromise is in terms of enforcement, but that enforcement will deal with liquor licenses, as the Nebraska Liquor Control Commission can. Thank you, Mr. President. [LB1120]

SPEAKER SCHEER: Thank you, Senator Larson. The question before us, adoption of AM2545. All those in favor please vote aye; all opposed vote nay. Have all voted that wish to? Please record. [LB1120]

CLERK: 36 ayes, 0 nays, Mr. President. [LB1120]

SPEAKER SCHEER: AM2545 is adopted. Seeing no one wishing to speak, Senator Larson, you're welcome to close on LB1120. He waives closing. The question before us is adoption of LB1120. All those in favor please vote aye; all opposed vote nay. Have all voted that wish to? Please record. [LB1120]

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

Floor Debate
April 03, 2018

CLERK: 41 ayes, 0 nays, Mr. President, on the advancement of the bill. [LB1120]

SPEAKER SCHEER: LB1120 is advanced to E&R Initial. Next item, Mr. Clerk. [LB1120]

CLERK: LB873, offered by the Urban Affairs Committee. (Read title.) Bill was introduced in January, referred to Urban Affairs Committee, advanced to General File. The bill has been discussed on March 2. At that time committee amendments were adopted, as were other amendments. When the Legislature left the issue, pending was an amendment by Senator Geist, FA122, as an amendment to the bill, Mr. President. (Legislative Journal page 1037.) [LB873]

SPEAKER SCHEER: Thank you, Mr. Clerk. Senator Wayne, would you like to refresh us on the bill itself and then we will go to Senator Geist for opening on her amendment? [LB873]

SENATOR WAYNE: Yes. I will be very short. This is a combination of a couple of different bills and then Senator Morfeld added a bill on the floor which was adopted. There are...I'll be really brief. I won't go through everything. The underlying bill is simply a cleanup bill. That's why it's so large. It's a cleanup bill with no substantive but only technical changes, such as "he or she" being added instead of "he." And changing the city, a couple of them were considered, "governing body" to "city council," a "second-class city" to a "city of the second class," just grammatical things. But where most of the conversation came around were a couple of the other bills which incorporated Senator Quick's land bank bill, which we call a land bank bill. We also incorporated Senator Hansen's bill. We also incorporated another Senator Quick bill. And we coordinated...incorporated Senator Blood's bill, which clarifies agreements between interlocal authorities regarding ETJ and who has enforcement. As far as the other bills, what I would like to do today, and we can spend a lot of time going back and forth and I'm always in favor of a good discussion, but I did meet with Senator Geist and we had a conversation. She has an amendment. I do not believe this is a friendly amendment. I would ask you to vote no or red on the amendment. But I would like to get to an up or down vote on her bill. I think it's critical that, as we move forward through the night, we keep moving. And I think there's been a lot of discussion on the land bank. I'm in favor of the bill as is. So I would ask you to vote red on the amendment, but I would like to get an up and down vote on Senator Geist's bill. Thank you. [LB873]

SENATOR LINDSTROM PRESIDING

SENATOR LINDSTROM: Thank you, Senator Wayne. Senator Geist, would you please update us on the amendment filed. [LB873]

Floor Debate
April 03, 2018

SENATOR GEIST: Sure. Thank you. Thank you, Mr. Chairman. And I will be brief as well. My amendment strikes the land bank section of the bill, which is Sections 34, 35, and 36, out of the larger bill. And I expressed last week or the week before--it's a blur (laugh)--the number of concerns that I have with the land bank portion of the bill. In short, I feel these sections are too broad. They make government bigger. They also give more authority to an appointed board than I'm comfortable with. This land bank idea is working in Omaha right now. It is a, from what I understand, a pilot program. I believe the jury is still out on whether this is a helpful program or not. I think we need to give that more time before we push this across the entire state. And as I...as Senator Wayne just iterated, I, too, am not interested in filibustering with this amendment. I simply wanted to let my concerns be known on this, with this amendment, and I am happy to just take an up or down vote on this amendment rather than hold up the entire bill. So with that, I will yield the rest of my time back to you, Mr. Chairman. [LB873]

SENATOR LINDSTROM: Thank you, Senator Geist. We'll now open it up to debate. Senator Hilgers, you're recognized. [LB873]

SENATOR HILGERS: Thank you, Mr. President. Good evening, colleagues. I rise in support of FA122 and I echo Senator Geist's comments. I think the idea of a land bank isn't necessarily a bad one. I certainly think that there's some good experience, initial experience that we have had in Omaha. But my view is that it's too much too soon. We are giving an unelected board significant power, significant authority. When we do that, I think we ought to be pretty careful in the instances in which we provide that authority. And what we have done, what we have done so far is we've done a pilot project in Omaha. There's nothing inherent in the structure that has guaranteed Omaha to have been successful. In fact, they had a few hiccups and a few issues when they first got off the ground. And there's nothing that guarantees, in fact, that Omaha will even be successful going into the future. But I think it's fair to say that they have had some success to begin with. And the concern I have is not so much that it isn't possible to craft a land bank bill that would be successful or that this isn't a good idea or that this isn't something that we ought to pursue to some degree in the future. I just think that taking this concept, expanding it statewide, not limiting it to any particular class of city, going statewide with this type of structure based on what I view as a limited set of data from the Omaha experience I think is just too much too soon. And with that, I would support...I support Senator Geist's floor amendment and I would urge you to vote green on that amendment which would take out the land bank portion of the bill. Thank you, Mr. President. [LB873]

SENATOR LINDSTROM: Thank you, Senator Hilgers. Senator Erdman, you're recognized. [LB873]

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

Floor Debate
April 03, 2018

SENATOR ERDMAN: Thank you, Mr. President. I appreciate that. Thank you, Senator Hilgers, for your comments. Senator Geist, thank you for your amendment. I appreciate that amendment. I will support FA122. The land bank has an opportunity to own up to 7 percent, I believe, of the property in the community. They have an opportunity to compete with those who are in the business of refurbishing and putting property back on the market and renting it. I don't believe that's government's position. I stated all along and back when LB873 first came to the floor that I wasn't in favor of the land bank, and I have not changed my opinion. And contrary to some's belief, I'm not interested in filibustering this one either. I've already done that once today. That's enough. So I am in favor of FA122 and I will be voting green. Thank you. [LB873]

SENATOR LINDSTROM: Thank you, Senator Erdman. Senator Wayne, you're recognized. [LB873]

SENATOR WAYNE: Thank you. I'll be very short. I just want to remind people this...I consider this not to be a friendly amendment, so I would ask you to vote red on the amendment and green on the underlying bill. But I just briefly want to mention what the land bank does. All it does is it currently deals with vacant, abandoned, or tax delinquent properties. So I just want to remind people that we're not taking anything off the tax rolls. They are already currently not on the tax rolls and we are trying to put them back on in some capacity. Again, to keep this short, we debated it for three hours last time and it was a healthy debate. I would ask you to vote red on the amendment and green on the underlying bill. Thank you, Mr. President. [LB873]

SENATOR LINDSTROM: Thank you, Senator Wayne. Seeing no one else in the queue, Senator Geist, you're recognized to close. Senator Geist waives closing. The question is, shall FA122 be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted that care to? Record, Mr. Clerk. [LB873]

CLERK: 17 ayes, 20 nays, Mr. President, on the amendment. [LB873]

SENATOR LINDSTROM: The amendment is not adopted. Returning the underlying bill, seeing no one else in the queue, Senator Wayne, you're recognized to close on LB873. Senator Wayne waives closing. The question is the advancement of LB873 to advance to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB873]

CLERK: 26 ayes, 4 nays, Mr. President, on the advancement of LB873. [LB873]

SENATOR LINDSTROM: LB873 has been adopted. Mr. Clerk, we'll move on to LB1034. [LB873 LB1034]

Floor Debate
April 03, 2018

CLERK: LB1034 is a bill introduced by Senator Riepe. (Read title.) Introduced on January 17, referred to the Health Committee, bill was advanced to General File. There are committee amendments. (AM2322, Legislative Journal page 1008.) [LB1034]

SENATOR LINDSTROM: Senator Riepe, you're welcome to open on LB1034. [LB1034]

SENATOR RIEPE: Thank you, Mr. President, colleagues, and Nebraskans. Today I present LB1034 as my priority bill. I have worked on this issue for almost two years with stakeholders. LB1034 requires the standards of care and protection for school-aged child-care programs located within an accredited or approved school are deemed to meet the same standards of an accredited or approved school under the regulations of the State Department of Education. I did not realize both the Department of Health and Human Services and the Department of Education have jurisdiction over elementary schools for the safety of children. In the early morning and late afternoon, evening the Department of Health and Human Services has oversight over the safety of children for before- and after-school programs located within the school. During the school day, the Department of Education has oversight of these same children, however, the safety requirements are vastly different depending upon the time of day. Some of examples provided by the Nebraska School Education Association was the height of a fence must be three inches taller for adult school programs than a fence used during the regulation school day. Mr. President, may I have a gavel? Thank you. Trash lids can...trash can lids and electrical outlet covers are required during before- and after-school programs, while they are not required during...they are not required during the school day. There is no additional risk of these children before or after school; there are just different departments providing oversight. I have worked closely with the Department of Health and Human Services, the Department of Education, and many stakeholders to improve upon the request to rectify the differences in regulation standards. These programs will still be able to accept Title XX funds to obtain licensure under this bill. Programs will still have to complete all additional requirements under the Child Care Licensure (sic-- Licensing) Act, including background checks. LB1034 received support from the Nebraska Association of School Boards and the Nebraska State Education Association. Please vote green on LB1034 when the opportunity presents. [LB1034]

SENATOR LINDSTROM: Thank you, Senator Riepe. As the Clerk stated, there are amendments from the committee. Senator Riepe, as Chair of the committee, you are recognized to open on the amendment. [LB1034]

SENATOR RIEPE: Thank you, Mr. President, colleagues, and Nebraskans. AM2322 is the other session-long effort of the Health and Human Services Committee. This committee amended...amendments include LB344, LB686, LB894 and LB1057. There were numerous public health bills this session and these bills have been broken up into two different committee

Floor Debate
April 03, 2018

priority bills: LB731 and LB1034. I want to thank you for your first-round approval of LB731 last week. These bills have been a labor of devotion for the committee, and I appreciate all the committee members' assistance through the process. LB344, introduced by Senator Albrecht, changes credentials and regulations for mental health substance abuse centers. LB686, introduced by Senator Blood, adopts the Psychological (sic--Psychology) Interjurisdictional Compact. LB894, introduced by Senator Crawford, adopts the EMS Personnel Licensure Interstate Compact. LB924 is my bill, introduced at the request of the Department of Health and Human Services, to change provisions within the Emergency Medical Services Practice Act, the Occupational Therapy Practice Act, and the Uniform Credentialing Act; and finally, LB1057 introduced by Senator Kuehn to change provisions within the prescription drug monitoring program. A document has been e-mailed to each of you today that highlights the sections of each bill and how they interact with the committee amendment in its entirety. The committee amendment was voted out of committee 7 to 0, and all of the bills attached to the committee amendment were also voted out 7 to 0, except LB894, which is the recognition of the EMS Personnel License Intensive (sic--Licensure Interstate) Compact, called REPLICA, which came out on a 6-0-1 vote. I will continue with the introduction of my bill, LB924, and I have asked Senator Albrecht, Senator Blood, Senator Crawford, and Senator Kuehn to speak to each of their bills. Unfortunately, Senator Crawford and Senator Blood are not here today and have asked me to introduce their bills. Moving to LB924, the bill proposes changes in the Emergency Medical Services Practice Act by allowing more flexibility and practice. LB924 received numerous testifiers in support, including the Board of the EMS, State Volunteer Firefighters, Fire Chiefs Association, and the Nebraska Emergency Medical Services Association. LB924 received opposition testimony from the Nurses Association, the Trial Attorneys, and from the Board of Nursing. A letter of opposition was also received from the National...or Nebraska Board, I'm sorry, of Occupational Therapy. The department worked with all stakeholders to eliminate concerns for the bill. AM2181 is that agreement on language, and there is now no opposition to LB924. I'm going to focus on the committee amendments for LB924, as many provisions were stricken from the original bill. AM2181 keeps the out-of-hospital designations and provides new definitions for advanced emergency medical technician practice for out-of-hospital emergency medical care, emergency medical responder practice for out-of-hospital emergency medical care, emergency medical technician, emergency medical technician-intermediate practice of out-of-hospital emergency medical care, paramedic practice of out-of-hospital emergency medical care, and practice of out-of-hospital emergency medical care. The bill made changes in the Occupational Therapy Practice Act to allow for internationally educated individuals to obtain licensure in the State of Nebraska. The amendment provides new language requirements for applications to be approved by the board, including training in a foreign country. The bill and amendment eliminates the requirement for signatures on license documents since board members' signatures are currently required but may be difficult to obtain as the board meets on a quarterly basis. Finally, the bill proposes to modify language contained in the Uniform Credentialing Act regarding the authority to require criminal background checks to be in

Floor Debate
April 03, 2018

compliance with requirements of the Enhanced Nurse Licensure Compact. The amendment allows for a criminal background check to be performed for initial licensures, on reinstatement, of a criminal background check when required by an interstate licensure compact. Moving to LB894, LB894 enters Nebraska into the recognition of Emergency Medical Services Personnel License (sic--Licensure) Interstate Compact, called REPLICA. REPLICA allows Nebraska EMS personnel to provide care across state lines under authority...under authorized circumstances and to provide standardized practices and accountability for licensed EMS personnel from other REPLICA states to provide intermittent care in Nebraska. REPLICA has passed in 12 other states, including our border states: Colorado, Kansas, and Wyoming. Ten states, including Nebraska, have pending REPLICA legislation. Like other compacts, LB894 eliminates red tape and allows licensed and qualified EMS personnel to provide care in another state under certain circumstances without having to obtain additional licenses. The REPLICA meets its designated purpose by granting licensed EMS personnel a privilege to practice within compact member states and establishes a national coordinated database, allowing for the rapid exchange of EMS personnel licensure history between member states. In addition, REPLICA validates Nebraska's commitment to veterans and their spouses by creating an expedited...or an expedited pathway to licensure in member states. Furthermore, Senator Crawford added language to the bill that would allow the temporary license in Nebraska for an EMS provider relocating to Nebraska and each provider is lawfully authorized to practice in another state that has adopted this EMS Personnel Licensure Interstate Compact. Under LB894, EMS personnel will function under their home state protocols but are required to practice under a physician medical director's supervision, bringing both accountability to the process and safety to their practice. To participate in the compact, member states must have passage of the National Registry of Emergency Medical Technicians examination as a requirement for their state licensure. The appropriate authority in a home state can restrict the scope of practice of an EMS professional practicing in that state if the scope of practice between the two differs. This compact does not address a EMS license type issued by the department. Specifically, emergency medical responders and emergency medical technician-intermediates are omitted from the compact and would not be eligible for compact privileges. [LB1034 LB344 LB686 LB894 LB1057 LB731 LB924]

SENATOR LINDSTROM: One minute. [LB1034]

SENATOR RIEPE: Thank you, sir. EMS or EMRs are not included because the scope of practice for EMRs vary significantly among states. There are no fees for REPLICA. Sustainable funding through the National Registry of EMT is used to fund the compact. In addition, Senator Crawford added language to the legislation in Section 15 (sic--Section 12, Article 15) "CONSTRUCTION AND SEVERABILITY," that the board can and will monitor commission activities, and if an assessment should be necessary in the future our state can decide whether or not to stay in the compact. In addition, once Nebraska joins the compact, our state will have a seat on the commission responsible for those decisions. Without REPLICA, the following

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

Floor Debate
April 03, 2018

challenges will continue to exist in Nebraska. A licensed personnel in Nebraska will continue to have minimal...or maintain minimal license in order to provide care across state lines. [LB1034]

SENATOR LINDSTROM: Time, Senator. [LB1034]

SENATOR RIEPE: Thank you. [LB1034]

SENATOR LINDSTROM: Mr. Clerk, there's an amendment to the committee amendment? [LB1034]

CLERK: Mr. President, Senator Riepe would move to amend the committee amendments with AM2573. (Legislative Journal page 1183.) [LB1034]

SENATOR LINDSTROM: Senator Riepe, you're recognized to open on your amendment to the committee amendments. [LB1034]

SENATOR RIEPE: Conversely, out-of-state EMS personnel will be required to go through the Nebraska license process when carrying out assigned duties on an intermittent basis. Nebraska will not have access to the coordinated personnel database for the rapid exchange of licensure history. And veterans will not have priority status in statute for license. The committee amendment includes changes to the immunity language in the bill, proposed by the Nebraska Association of Trial Attorneys. The immunity language clarifies the language of the compact commission. Now, thank you, Mr. President and colleagues. During Executive Session, Senator Howard expressed concerns regarding inspections and compliance with federal requirements for Title XX funding. AM2573 allows flexibility for the Department of Health and Human Services to provide the necessary inspections and any additional requirements for participation in the Title XX reimbursement for before- and after-school programs. I have reviewed this amendment with the department as well as Senator Howard to make sure the amendment addresses the concerns regarding Title XX, as we would not want to jeopardize Title XX reimbursement for providers that care for low-income families throughout the state. It is my understanding that with this amendment Senator Howard is now in support of LB1034. Thank you and I ask for your green vote on AM2573 and LB1034. [LB1034]

SENATOR LINDSTROM: Thank you, Senator Riepe. Return...or going to debate, Senator Kuehn, you are recognized. [LB1034]

SENATOR KUEHN: Thank you, Mr. President. Colleagues, as Senator Riepe indicated, in AM2322 are the components of LB1057. LB1057 is a very basic bill that was heard by Health

Floor Debate
April 03, 2018

and Human Services Committee, had no opposition, strikes a paragraph and rewrites it regarding the prescription drug monitoring program, makes three basic changes. First, it eliminates an inconsistent date with a deadline for veterinary reporting to the PDMP. Second, it distinguishes between different types of pharmacies. Currently the PDMP does not distinguish between, for example, a veterinary pharmacy, a human pharmacy, as well as something like a radiology pharmacy. So it was creating an issue in interpretation in which veterinary pharmacies were reporting all drugs that did not go well with the system. And third and finally it redefines "dispenser" to ensure that those who are dispensing prescriptions in an inpatient setting, such as a hospital or an emergency room, have access to the PDMP. So very basic amendment, strikes one paragraph, rewrites it and inserts it as another. I appreciate the support of the Health and Human Services Committee passing this unanimously and thank Senator Riepe for including it in AM2322 and encourage your green vote on the amendment and the underlying bill. Thank you, Mr. President. [LB1034 LB1057]

SENATOR LINDSTROM: Thank you, Senator Kuehn. Senator Albrecht, you're recognized. [LB1034]

SENATOR ALBRECHT: Thank you, President. I introduced LB344 last year on behalf of Governor Ricketts and the Department of Health and Human Services, and it is a part of the Governor's occupational licensure reform legislative package. LB344, as amended by AM1453, reduces regulatory burdens by streamlining the separate licensing process for mental health centers and substance abuse treatment centers. Also, this bill provides an alternative method to obtain an alcohol and drug counseling license or mental health practice license in Nebraska through reciprocity by recognizing licensure and the other requirements of other states. This bill includes additional degrees or substantially equivalent degrees to be considered acceptable for licensure as a mental health practitioner. Lastly, as of today, an application for a provisional license must identify their supervisor at the time of application. LB344 would allow an applicant to obtain the provisional license and then seek employment, registering 30 days after, making the Nebraska's job licensing requirements more consistent and competitive with our neighboring states. The Nebraska Medical Association provided the only opposition testimony in the committee hearing on March 1 of 2017. Following discussions, we were able to write an amendment, AM1453, that all parties could agree on, and the Nebraska Medical Association sent a letter to publicly withdraw their opposition and are now in support of this bill, as amended. Thank you, Senator Riepe and the Health and Human Services Committee, for including LB344 in LB1034. And I ask for a green vote on AM2322 and the underlying LB1034. Thank you. [LB1034 LB344]

SENATOR LINDSTROM: Thank you, Senator Albrecht. Senator Howard, you're recognized. [LB1034]

Floor Debate
April 03, 2018

SENATOR HOWARD: Thank you, Mr. President. I rise in support of AM2573. And subsequently, with that change, I rise in support of LB1034 and all the bills that are included in AM2322. Thank you, Mr. President. [LB1034]

SENATOR LINDSTROM: Thank you, Senator Howard. Senator Riepe, you're recognized. [LB1034]

SENATOR RIEPE: Thank you, Mr. President and colleagues. I wanted to follow up with one piece on this omnibus bill, LB1034, which also includes LB686. LB686 is an interstate compact designed to facilitate the practice of telepsychology and temporary in-person, face-to-face practice of psychology across state lines in what is called a PSYPACT. Senator Blood brought this bill as part of her military families initiative, attempting to remove as many hurdles to employment as possible for both our veterans and military spouses. This is a cooperative agreement that will be enacted into law by participating states that address the increased demand to provide and receive psychological services via electronic means for telepsychology. It also authorizes both telepsychology and temporary in-person, face-to-face practice of psychology across state lines in PSYPACT states. PSYPACT states then have the ability to regulate telepsychology and temporary in-person, face-to-face practice. This compact becomes operational when seven states enact the PSYPACT into law. Currently three states have enacted this legislation--Arizona, Utah, Nevada--and five states have been bringing forth or have brought forth legislation this year--Colorado, Illinois, Georgia, Missouri, and Rhode Island. This compact has the ability to increase client patient access to care. It facilitates continuity of care when a client patient relocates or travels. It certifies that psychologists meet acceptable standards of practice. It promotes cooperative...cooperation between states in the areas of licensed...licensure and regulation. And it offers a high degree of consumer protection across state lines thanks to the ongoing communication between the states. There are also benefits for the psychologists themselves, because it allows licensed psychologists to practice and conduct temporary in-person, face-to-face across state line PSYPACT states without having to become licensed in those states. It also permits psychologists to provide services to populations currently underserved or geographically isolated and standardized time allowances for temporary practice regulations in PSYPACT states. Like most interstate compacts, this is a win-win for our underserved areas that may depend upon telemedicine. It eliminates another stumbling block for potential job seekers, it helps to maintain the quality of service provided to consumers, and it supports Nebraska's ongoing effort to provide quality mental health services to an underserved population. The individuals in rural areas especially benefit from increased availability of telehealth services provided by qualified, licensed psychologists who are not physically located in their local area or even nearby community. Thank you, Mr. President. And I ask all of you, as my colleagues, for a green vote on AM2322, that's AM2322, and the underlying bill of LB1034. Thank you, Mr. President. [LB1034 LB686]

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

Floor Debate
April 03, 2018

SENATOR LINDSTROM: Thank you, Senator Riepe. Seeing no one else in the queue, Senator Riepe, you're recognized to close on your amendment to the committee amendment. [LB1034]

SENATOR RIEPE: Thank you, Mr. President. Please vote green on AM2573, AM2322, and the underlying bill of LB1034. [LB1034]

SENATOR LINDSTROM: Thank you, Senator Riepe. The question is, shall the amendment to the committee amendment be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted that care to? Record, Mr. Clerk. [LB1034]

CLERK: 38 ayes, 0 nays, Mr. President. [LB1034]

SENATOR LINDSTROM: The amendment is adopted. Returning to the committee amendment, seeing no one else in the queue, Senator Riepe, you're recognized to close on the committee amendment. Senator Riepe waives closing. The question is, shall AM2322 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB1034]

CLERK: 38 ayes, 0 nays, Mr. President, on the adoption of the committee amendments. [LB1034]

SENATOR LINDSTROM: The amendment is adopted. Mr. Clerk. [LB1034]

CLERK: Mr. President, Senator Kolterman would move to amend with AM2676. (Legislative Journal page 1324.) [LB1034]

SENATOR LINDSTROM: Senator Kolterman, you're recognized to open on AM2676. [LB1034]

SENATOR KOLTERMAN: Good afternoon, colleagues. Thank you, Mr. President. AM2676 is comprised of three bills: LB703, LB704, and LB1035. I introduced LB703 and LB704, and Senator Riepe introduced LB1035. All three bills advanced out of the Health and Human Services Committee, with no opposition, 7 to 0. During the committee hearings on the bills, there was no opposing testimony. These bills have no fiscal impact on the state. The two bills that I introduced I will introduce and then I'll remit the rest of my time to Senator Riepe. First bill, LB703, amends the Medicine and Surgery Act to close a gap in our medical practice status. This legislation is needed to clarify that physicians licensed in another jurisdiction who accompany a team to Nebraska for an athletic competition or event are lawfully practicing medicine. LB703 limits the exemption to just the treatment of the out-of-state team while the

Floor Debate
April 03, 2018

team is in Nebraska. A similar provision is already in law for athletic trainers. The second bill included in the amendment, LB704, also amends the Medicine and Surgery Act. Under current law, graduates of a foreign medical college are required to complete three years of postgraduate medical education before they're eligible to receive a physician license. Many other states, including Iowa, only require two years of postgraduate education before being eligible for a license. LB704 would reduce our three-year requirement to two years. The other requirements for license, including testing and verification by the Educational Commission for Foreign Medical Graduates, still will apply. This legislation will make Nebraska a more attractive place for foreign medical graduates to serve their residencies, which will, in turn, help our hospitals and our physician clinics recruit more physicians to our state. The state Board of Medicine vetted the language and supports this change. Thank you, colleagues. I urge you to vote green on AM2676 and LB1034. With that, Mr. President, I yield the remainder of my time to Senator Riepe. [LB1034 LB703 LB704 LB1035]

SENATOR LINDSTROM: Senator Riepe, you're yielded 7:43. [LB1034]

SENATOR RIEPE: Thank you, Mr. President. And with that, I will go to the amendment. I've been encouraged by my colleagues to replicate the length of my last amendment, but I'm not going to do that. (Laughter) AM2676 includes provisions of LB1035, as amended by AM1741 that amends the Stroke System of Care Act to add endovascular therapy capable stroke centers to designations allowed by the Department of Health and Human Services to improve the overall outcome of stroke patients. In 2015, Senator Baker introduced LB722 to create the Stroke System of Care Act. The legislative goals were to improve the overall outcomes of stroke patients. LB722 established a statewide stroke system to care by designating hospitals as a comprehensive stroke center, a primary stroke center, or an acute stroke-ready hospital. There's a new national designation for stroke centers that started in 2018 and LB1035 is an update to address the new designation--endovascular therapy capable stroke centers. Concerns over language in the original bill was addressed in the committee amendment, AM1741, to change the language from "endovascular therapy" to "designated thrombectomy" capable stroke centers. LB1035 was voted out of committee 7 to 0 and is supported by the Nebraska Hospital Association, the American Heart Association, the Catholic Health Initiative. And I ask for your support of AM2676 and LB1034. Thank you, Mr. President and colleagues. [LB1034 LB1035]

SENATOR LINDSTROM: Thank you, Senators Riepe and Kolterman. Seeing no one else in the queue, Senator Kolterman waives closing. The question before us is the adoption of AM2676. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB1034]

CLERK: 37 ayes, 0 nays on adoption of Senator Kolterman's amendment. [LB1034]

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

Floor Debate
April 03, 2018

SENATOR LINDSTROM: The amendment has been adopted. Returning to LB1034, seeing no one in the queue, Senator Riepe, you're welcome to close on LB1034. Senator Riepe waives closing. The question before us is the advancement of LB1034 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB1034]

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of LB1034. [LB1034]

SENATOR LINDSTROM: The bill does advance. Mr. Clerk for announcements. Mr. Clerk, we will now move to LB1034A. [LB1034 LB1034A]

CLERK: LB1034A is a bill by Senator Riepe. (Read title.) Mr. President, Senator Riepe would move to amend the bill with AM2793. (Legislative Journal pages 1373-1374.) [LB1034]

SENATOR LINDSTROM: Senator Riepe, you're welcome to open on AM2793. [LB1034]

SENATOR RIEPE: Thank you, Mr. President and colleagues. This is the A bill for LB1034. All compacts have fiscal notes and LB1034A is the fiscal impact from LB686, and the funds will come from the Professional and Occupational Credentialing Cash Fund. The cost is approximately \$2,000 annually. The original A bill with this additional amendment addresses the fiscal impact of the \$2,000 into the medical operational funds. And I ask for your green vote on AM2793 and LB1034A. [LB1034A LB1034 LB686]

SENATOR LINDSTROM: Thank you, Senator Riepe. Seeing no one in the queue, Senator Riepe, you're welcome to close. Senator Riepe waives closing. The question is the advancement of AM2793. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB1034A]

CLERK: 39 ayes, 0 nays, Mr. President, on adoption of the amendment. [LB1034A]

SENATOR LINDSTROM: The amendment is adopted. Returning to LB1034A, Senator Riepe, you're welcome to close. Senator Riepe waives closing. The question before us is the advancement to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB1034A]

CLERK: 40 ayes, 0 nays, Mr. President, on the advancement of the A bill. [LB1034A]

SENATOR LINDSTROM: Mr. Clerk for announcements.

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

Floor Debate
April 03, 2018

CLERK: Mr. President, just one item: Senator Wayne would like to print an amendment to LB729. (AM2778, Legislative Journal page 1374.) [LB729]

And Senator Linehan would move to adjourn the body until Wednesday, April 4, at 9:00 a.m.

SENATOR LINDSTROM: The motion before us is to adjourn. All those in favor say aye. All those opposed say nay. We are adjourned.