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Floor Debate  
May 01, 2019

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FOLEY: [RECORDER MALFUNCTION] Call to order the sixty-ninth day of the One Hundred Sixth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

ASSISTANT CLERK: There's a quorum present, Mr. President.

FOLEY: Thank you, Mr. Clerk. Any corrections for the Journal?

ASSISTANT CLERK: No corrections.

FOLEY: Thank you, Mr. Clerk. Members, please come to order. Are there any messages, reports, or announcements?

ASSISTANT CLERK: Not at this time, Mr. 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 two resolutions: number LR90 and number LR91. (Visitors introduced.) We'll now proceed to the first item on the agenda, General File, 2019 committee priority bills. LR, excuse me, LB397. Mr. Clerk.

ASSISTANT CLERK: Mr. President, LB397, introduced by Senator Briese. (Read title.) Bill was introduced on January 17 of this year, referred to the General Affairs Committee. That committee placed the bill on General File. There are no committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Briese, you're recognized to open on LB397.

BRIESE: Thank you, Mr. President. Good morning, colleagues. I rise today to present for your consideration LB397. LB397 was brought to me by the Attorney General's Office, who is responsible for enforcement of the Tobacco Master Settlement Agreement. In its simplest form, it is drafted to help ensure compliance with the MSA. A little background on the MSA: Prior to the mid-'90s there were countless lawsuits filed by individuals against the tobacco industry for damages for smoking-related issues, and those were rarely successful. But the states also had claims for Medicaid costs and the Tobacco Master Settlement Agreement was entered into in 1998 between the four largest U.S. tobacco companies and the Attorney General's of 46 states. With this, the states settled their Medicaid lawsuits against the tobacco industry for recovery of

Floor Debate  
May 01, 2019

---

their tobacco-related healthcare costs. In exchange, the companies agreed to curtail or cease certain tobacco marketing practices, as well as to pay in perpetuity annual payments to the states to compensate them for some of the medical costs of caring for persons with smoking-related illnesses. In the MSA, the original participating manufacturers agreed to pay a minimum of \$206 billion over the first 25 years. They also agreed to several other components. Included in those were restrictions on advertising, especially that that is directed at our youth. They agreed to disband, disband some tobacco-related organizations. They agreed to create and fund the National Public Education Foundation. They agreed to make these payments in perpetuity, as I indicated earlier. Additional manufacturers signed on after that. Together, the signees are called the participating manufacturers. We also have a group of manufacturers who aren't parties, party to the MSA. They are called the nonparticipating manufacturers, or the NPMs. And when you have the participating manufacturers bound by the restrictions of the MSA competing with the nonparticipating manufacturers, there's a concern that the NPMs are getting an unfair advantage. To address this, the MSA provides that annual MSA payments due from the participating manufacturers are reduced if the participating manufacturers lose market share to the nonparticipants. In this nonparticipating manufacturer adjustment, which provides that if participating manufacturers have lost market share because of their compliance, the payments will be reduced by a-- a nonparticipating manufacturer adjustment percentage. However, the states are protected from this adjustment if they adopt the model statute attached to the MSA and diligently enforce it. So this nonparticipating manufacturing-- manufacturer adjustment is not applicable if the state has a qualifying or model escrow statute, and ours is found at 69-2703. And this escrow requirement ensures that a nonparticipant has an established reserve fund to guarantee a source of compensation and to provide such manufacturers from deriving large short-term profits, then becoming judgment-proof. Towards this end, the model escrow statute, again, 69-2703, requires a nonparticipant to either, number one, join the MSA and become a participating manufacturer or make payments into a state liability reserve escrow account. These funds are to be used only to pay a judgment or settle a claim. It's returned after 25 years. The nonparticipants pay into this account roughly an amount equal to the per-cigarette amount that the MSA requires of the participants. With that said, we should also note that the dollars we receive from the MSA are a primary source of funding for our Health Care Cash Fund. So what does this bill do? First, it amends Section 28-1218 to 28-1429 to provide new definitions and retail licensing terms to address existing potential legal loopholes and to anticipate new products in the consumer nicotine market by creating a new definition of electronic nicotine delivery systems, or ENDS, E-N-D-S. This definition in Section 2 replaces the current definition of vapor products. Under LB397, ENDS retailers are required to obtain the same license as cigarette and other product retailers in order to prevent a resurgent-- resurgence of unregulated nonparticipating manufacturers. And it incorporates the ENDS definition into the statutes relative to age limitations per you-- as to per use, age limitations as per sale, sales without a license, licensing requirements, licensing fees, penalties for unlawful sale, parameters of licensing, unlawful purchase, prohibition on sales through vending machines, and prohibition on

Floor Debate  
May 01, 2019

---

public displays. Note that this is for licensing and regulatory purposes and does not seek to create a new taxable market. This provision will help safeguard against future MSA enforcement provisions. Note that several other states require retail licenses for e-cigarettes and note that the FDA and several other states use this same definition of electronic nicotine delivery systems. And this is the same definition we discussed yesterday on Senator Quick's LB149 and the same definition that we adopted in the committee amendment to LB149. Secondly, in Section 12 of LB397 we add a new section that provides that these nonparticipating manufacturers that place funds into escrow, that I talked about earlier pursuant to 69-2703, may make an irrevocable assignment those-- of those funds to the state. And why is this helpful? First, the AG must otherwise continue to monitor dozens of inactive nonparticipants because of the existence of these accounts, and this would allow inactive nonparticipants to assign these accounts and would likely lead to receipt of escrow money in lieu of maintained oversight. And this would save Nebraska in administrative costs associated with maintaining this oversight. And several other states have done this and it's my understanding that many NPMs in those states have assigned this to the states. Third, Section 16 puts in statute an updated bonding requirement that is necessary to avoid losing Master Settlement Agreement dollars. As I mentioned earlier, NPMs, or nonparticipants, have a significant cost in marketing advantage over participating manufacturers because those nonparticipants, not subject to the same MSA payment marketing restrictions. As per 69-2707.01, all nonparticipants must post a bond. And there's something, a side agreement to the Master Settlement Agreement, called the nonparticipating manufacturers Adjustment Settlement Agreement, and it's designed to offset the costs and marketing advantages the nonparticipants have and it does so by penalizing states with an excess percentage of noncompliant nonparticipating manufacturer of cigarettes. And those noncompliant cigarettes or nonparticipating manufacturing cigarettes on which the excise tax was paid but there was no escrow deposited. Section 16 puts in place this updated bonding statute. And as per the MSA, having this updated bonding statute allows states to exclude the noncompliant cigarettes from the calculation and avoid this penalty. The old bonding requirement is not near as detailed, it's a lesser amount of bond required, and a fairly limited description of what's called a high-risk category. And it's my understanding that we need to adopt this updated NPM bond statute as drafted in order to avoid losing money each year under the penalty called the SET, or set paid adjustment. Fourth, Section 21 updates the definition of cigarette for tax and stamping purposes. It's identical to the definition found in Section II, paragraph (m) of the Master Settlement Agreement. Currently, our statutory definition of cigarette for tax and stamping purposes does not match the Nebraska definition under our escrow directly-- directory law, federal law, or the MSA. This provision would incorp a def-- incorporate a definition that describes any product containing nicotine intended to be burned or heated, and includes tobacco rolled in paper, tobacco likely to be bought as a cigarette, roll of tobacco wrapped in tobacco likely to be bought as a cigarette. In so doing, it includes heat, not burned products. And the manufacturers of these heat, not burned products are leaning towards, it's my

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

Floor Debate  
May 01, 2019

---

understanding, they're leaning towards claiming existing cigarette tax laws don't apply. This bill--

FOLEY: One minute.

BRIESE: Thank you. This bill would clarify that and would include these products as taxable cigarettes and, therefore, fixes and avoids tax and escrow loophole for current products in anticipation of future products. This bill contains important provisions to protect Nebraska and protect the AG's Office with necessary enforcement tools. From the fiscal note it appears that this is essentially a slight tax decrease and that's because we're changing the definition of cigarette to include little cigars. This will result in a decrease in tobacco products tax collection and a slight increase in cigarette tax. But overall, it's an overall slight net tax decrease. Anyway, this bill is important to ensure our compliance with the MSA and protect dollars due our-- due our state pursuant to the MSA. I'd ask for your support. Thank you, Mr. President.

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

ASSISTANT CLERK: Mr. President, Senator Cavanaugh would move to amend with AM1528.

FOLEY: Senator Cavanaugh, you're recognized to open on your amendment.

CAVANAUGH: Thank you, Mr. Lieutenant Governor. Good morning, colleagues. I bring AM1528 today for very important reasons. First off, the amendment expands upon the definitions used in LB397 for vaping devices. Second, it increases the tax per cigarette pack by \$1.00 to a total of \$1.64. The additional revenue goes primarily-- goes to property tax relief, Medicaid expansion. By funding Medicaid expansion in this way we can reduce or even eliminate its impact on the General Fund. Third, it reduce-- reduces costs and saves lives by reducing smoking rates and funding health programs most impacted by tobacco products. We are facing another year of a budget crisis and it is my fear and the fear of many Nebraskans that we will, we, as the legislative body, are going to continue down this road of making cuts to services that will impact those most vulnerable in our communities. AM1528 is a move towards addressing the growing health crisis in Nebraska. The electronic nicotine device delivery system definition in the original bill is-- is more narrow. As the name implies, it focuses only on e-cigarettes containing nicotine. This is a significant policy problem in that e-cigarettes contain-- containing nicotine are only one type of e-cigarette. There are many e-cigarettes that do not contain nicotine, or at least are marketed that way, but still deliver other addictive and potentially harmful chemicals. From the public health perspective, it is necessary to encompass all e-cigarettes because there is very little data on the long-term effects of these products because they are so new. However, the-- the CDC has stated that no e-cigarettes are safe. They have been

Floor Debate  
May 01, 2019

---

found to contain a wide variety of toxic substances. Therefore, the Legislature should treat all e-cigarettes the same. From the local law enforcement prospective, it is necessary to encompass all e-cigarettes because there is no infrastructure available for enforcement officials to test, determine-- or determine if a product truly contains nicotine. If a police officer sees a young person using an electric cigarette, there's no way to know if that product contains nicotine. Additionally, according to the Public Health Law Center, reports that some products marketed now as not containing nicotine have been found to contain nicotine in some cases. Having multiple terms and definitions for various products has proven to be a tactic by the tobacco companies to exempt tobacco products from regulation altogether or to have them regulated differently, most frequently for the purpose of avoiding taxation. While the electronic nicotine delivery system, or ENDS, language is suggested by the AG's Office, we are continuing to work with the AG's Office on that language so that it will simplify their administrative duties related to the Master Settlement Agreement, not to reduce tobacco use and to-- and protect our kids from the harm of tobacco use. The Legislature has its own prerogative as a policy-writing branch and it should work proactively to protect kids from these harmful products. Increasing the tobacco tax by \$1 from it's current level of 64 cents will have an immediate and major impact: a reduction in tobacco usage, particularly among underage youth. A study by UNMC's Center for Health Policy estimates that this increase will cause over 2,000 fewer high school-- schoolers smoking either due to quitting or simply never picking up the habit. Study after study has shown that every 10 percent increase in the cigarette tax results in a 3-5 percent decrease in cigarette consumption. And teenage smokers are even more sensitive to these price increases. While taking into account both age, the age the average adult smoker begins at 16 and the increased healthcare costs from smoking related illnesses, this will save lives and money. AM1528 seeks to better define vaping and related products in Nebraska. Almost every day there is a story about the adverse effects of vaping on youths. In the past it has been no secret that the tobacco industry marketed to teens as a means of gaining a foothold in lifelong smokers. As smoking has become more restricted, the predatory practice of marketing to youths has not gone away. It has simply shifted. Manufacturers of vape products, who are in many cases the large tobacco companies, are facing lawsuits in multiple states for marketing to minors. According to the infor-- to information in one class action suit, one vape pods delivers as much nicotine as an entire pack of cigarettes. The Center for Disease Control published a study two weeks ago showing that the number of high schoolers vaping nearly doubled from 2017 to '18 alone, in a rate of one to five. The data additionally shows that teens who vape are three times more likely as other youth to begin smoking cigarettes. It's been asserted that nicotine is harmless. This is false. Research from the National Institute of Health shows that nicotine negatively impacts the areas of the brain responsible for memory, learning, and brain plasticity. It's also been shown to be a major contributor to Type II diabetes and has links to various forms of lung cancer, gastrointestinal cancers. Youth vaping is our next public health crisis. There's a cost to Nebraska. There's a considerable cost to Nebraska for smoking-related health expenditures and productivity lessen-- losses. It is estimated that tobacco-related healthcare costs exceed \$900 million in Nebraska

Floor Debate  
May 01, 2019

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alone every year. The human cost is 2,500 lives every year. Nine hundred million dollars, colleagues, we could solve our budget crisis if we just got Nebraska to stop smoking entirely. Nine hundred million dollars is the cost to the state. AM1528 would increase the cigarette tax by \$1 per pack from the current level of \$1.64 per pack up to \$1-- from the current level, I'm sorry, of 64 cents per pack up to \$1.64 per pack. The additional funding from \$1 per pack would be distributed, would be transferred to the Property Tax Relief Fund and the Nebraska Health Care Cash Fund. Once in the Nebraska Health Care Cash Fund, the additional funding would be used, first, to ensure that Medicaid expansion is fully funded and, second, to provide additional funding for smoking sensation [SIC], addiction services, long-term sustainability of the cash fund, and cancer research. It makes sense to transfer the additional revenue from the increase to the Health Care Cash Fund for a few very important reasons. The provision of ensuring that funding is used to fully fund Medicaid expansion will eliminate the pressure that this places on the overall General Fund budget. Beyond the direct infusion of cash into the Property Tax Relief Fund, this will free up General Fund dollars to be used for property tax relief efforts. This could be done through direct property tax relief or other indirect measures, such as foundational aid for school districts or other school funding measures to help nonequalized school districts reduce their local property tax burdens. The provision of additional funding for smoking cessation and addiction services will help reduce the rates of smoking, which helps save lives, reduce the healthcare costs, and reduce pressure for funding these items from the overall General Fund budget. The provision of ensuring long-term sustainability of the Health Care Cash Fund helps to make sure there is funding for a variety of healthcare programs which we will actually be discussing this afternoon, such as Senator McDonnell's appropriations bill from the Health Care Cash Fund. This further helps reduce pressure on the overall General Fund budget. Specifically, Medicaid expansion is estimated to cost \$63.1 million this biennium and the costs are expected to increase for the next biennium. The cost is estimated to be over \$100 million. Again, by providing the funding for Medicaid expansion through an increase in the cigarette tax, there will be significant General Fund dollars freed up that can be used to provide property tax relief. In closing, the revenue generated by AM1528 would help address key budgetary issues facing our state and will, at the same time, reduce healthcare costs and save lives. I ask for your green vote on AM1528. Thank you.

FOLEY: Thank you, Senator Cavanaugh. Debate is now open on LB397 and the pending amendment. Senator Chambers.

CHAMBERS: Thank you, Mr. President. Members of the Legislature, this has been an interesting case study for me. This bill is not exciting but it deals with some extremely important issues. But when you, if you are trying to either capture quarry or kill it, you need to study it when it is unaware that it is being studied. So on bills such as this which are of great import, I study what the overall mood is in this Chamber and I see a total lack of concern or interest, which is what often happens on this floor. But we're getting down to the part of the session now

Floor Debate  
May 01, 2019

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where there are going to be sparks, to say the least, fireworks, to say a little bit more, explosions, to say the most. All that Senator Linehan, eternal optimist as I've told her, a hopeless dreamer as I told her, was to do-- was to throw a bomb into the Chamber. I read in the paper what they put into that bill. Two of the members couldn't vote at all. They didn't vote for or against it. Everything that was put in it that I read about drew enemies, opposition. Nothing consolidated. That kind of chaos is what I thrive in. And I'm going to give you all an idea of where I'm going. I'm going to fight that increase in the sales tax by myself, long enough to take us to cloture. Then I'm going to fight that very cruel, thoughtless, shortsighted view of taking away the exemption for veterinary services for pet animals. This is not being presented by me from the position of an animal lover but, rather, the people who have these pets. There are older people, there are people who are disabled, there are people who need mental support and these animals provide what human beings do not. So I think there was a total lack of understanding and maybe what the committee had to do was to pick those items that they thought had not much of a constituency and they would cut them. Well, these two items that I mention have an advocate in me and I think I've shown what I can do. But since we're in the latter parts of the session, you probably think, at my advanced age, I've used up my energy and now that I'm-- now I'm tired. If you know anything about exercising, if you don't exercise and you start exerting yourself, you get tired. If you have an exercise regimen you need to exercise to really hit your stride and feel that surge of energy, that strength that exercising produces. And rather than it wearing you out, it energizes you. After the appropriate type of exercising, you feel more alive, more energetic than you did before you started. So I've been kind of shadowboxing, doing a little roadwork. Now we get into the ring. And I'm going to confide in you all-- let me use a different word. I'm going to warn you all just as the referee does when two pugilists come together--

FOLEY: One minute.

CHAMBERS: --within the squared circle, in other words, two prizefighters or professional fighters. Protect yourself at all times. I am not going to be reasoned with. I'm not going to be negotiated with. I don't care if we don't pass that bill that the committee put out. And this is one time you're going to see the Governor and I walking a similar path. Now he'll have a big grin on his face, but I will have a clothespin on my nose because of the company that I must keep. These kind of issues produce strange, what they call, bed fellows, and it will. And I'm going to have something to read while we're talking about this bill which shows that young people, when it comes to the LBGT-- the LBGTQ community, provide more leadership than adults. And I'm not going to let that issue go. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. (Doctor of the day and visitors introduced.) Senator Briese, for what purpose do you rise?

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

Floor Debate  
May 01, 2019

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BRIESE: Point of privilege. Point of privilege.

FOLEY: Please proceed.

BRIESE: Yes, I object to AM1528. It's out of order. It's not germane.

FOLEY: Senator Briese, if you'd like to take a moment to explain why you believe the amendment is not germane, then I'll ask Senator Cavanaugh to explain why she believes that it is germane.

CHAMBERS: [MICROPHONE MALFUNCTION] Question of the Chair.

FOLEY: Senator Chambers.

CHAMBERS: Is it appropriate to discuss a piece of legislation by way of a point of personal privilege? I don't think it is.

FOLEY: Well, technically, I think what he's raising is a point of order, not a point of personal privilege. I think he may have misspoken on that. But in any event, he's-- he's eligible to raise the objection that he's raising.

CHAMBERS: He-- was his light on and he was called in the order which his light appeared?

FOLEY: No, he was not.

CHAMBERS: Then you're recognizing him on a point of personal privilege, which was inappropriate. He is out of order by making-- asking for a point of personal privilege. The Chair is out of order for accepting it. And you all can mock me if you want to, but you need to watch what's happening because from now on I'm going to ask for a point of personal privilege every time I want to say something. The rules tell us the bases for a personal privilege. I'm going to see what the Chair does now.

FOLEY: Mr. Briese, you're recognized to open-- to explain why you believe this amendment is not germane.

BRIESE: Rule 7, Section 3 provides any amendment that is not ger--



Floor Debate  
May 01, 2019

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CHAMBERS: [MICROPHONE MALFUNCTION]-- point of order. Does the Chair want to make a ruling? [INAUDIBLE].

FOLEY: Senator Briese.

CHAMBERS: [MICROPHONE MALFUNCTION] Senator Briese ought to sit down and do it right if you won't.

FOLEY: Senator Briese, you've been recognized.

CHAMBERS: [MICROPHONE MALFUNCTION] You're wrong, Briese.

BRIESE: Thank you, Mr. President.

CHAMBERS: [MICROPHONE MALFUNCTION] His bill is dead.

BRIESE: Any amendment that is not germane is out of order. Germane amendments relate to details of the specific subject of the bill and must be in a natural and logical sequence to the subject matter of the original proposal. The rule further provides that a nongermane amendment includes one that relates to a substantially different subject. LB397 was referred to the General Affairs Committee. So what does LB397 do? It defines ENDS, or electronic nicotine delivery system for regulation and licensing pursuant to 28-1418 to 28-1429. It provides for Master Settlement Agreement nonparticipating manufacturers escrow assignments to the state. It updates a bonding requirement for nonparticipating manufacturers to ensure compliance with the Master Settlement Agreement, and it updates the definition of cigarettes to be consistent with the MSA. So what does AM1528 do? Now, granted, there is at least one change in AM1528 that could be considered germane. It replaces the ENDS language with something else and I'd consider that germane. But after that, it gets problematic. For example, in Section 14 it expands the eligibility for Medicaid to the children of families with 2-- up to 200 [SIC] percent of poverty instead of the current 200 percent. Any way you slice it, that's completely unrelated to LB397. In Section 23 it directs the increase in the cigarette-- in a cigarette tax to 36 percent going to the Property Tax Credit Fund, 35 percent to Medicaid expansion, 15 percent to the Medical Center, 5 percent to tobacco prevention, and so forth. We're talking about, quote, substantially different subject here. It's not germane. Section 25 raises the cigarette tax by \$1. That's a provision more appropriately heard in Revenue. It's a Revenue provision. In fact, it was heard in Revenue and it is still sitting in Revenue. It's not appropriate to amend it on to a General Affairs bill dealing with definitional language. Section 25 directs \$60 million to the Health Care Cash Fund, and what's that have to do with LB397? That relates to a substantially different subject and is not germane.

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

Floor Debate  
May 01, 2019

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Section 30 increases the tax on snuff from 44 cents to 65 percent per ounce or 65 percent of the price, and on tobacco products from 20 percent of the price to 65 percent. This is a different statute, different subject than what's addressed in LB397. I submit, Mr. President, that what we have here is a nongermane amendment. It's out of order and I'd ask for a ruling to direct that. Thank you.

FOLEY: Thank you, Senator Briese. Senator Cavanaugh, if you'd like to take some time to explain why you believe the amendment that you're offering is germane to the bill.

CAVANAUGH: I would, Mr. President, though I would also like to express my disappointment with the order in which we are doing this. I think that the rules of this Legislature are extremely important and I agree with Senator Chambers that we should be doing things in the appropriate manner. If we don't have the rules, we lose all civility. With that said, I will still argue for germaneness on this bill. As Senator Briese stated, it does open up the same state statute and it opens up the same section of that statute. I believe that this is germane because Senator Briese's bill works on the definitions of tobacco and tobacco-related products, as does my amendment. His bill also talks about the Master Settlement Agreement, as does my amendment. I would be more than happy to amend my amendment to remove the Property Tax Relief Fund and keep all of the funds going towards the Health Care Cash Fund, as is part of the Master Settlement Agreement. But my bill does deal with the same statute as Senator Briese's bill and I believe that it is germane.

FOLEY: Thank you, Senator Cavanaugh. If I could ask Senator Briese and Senator Cavanaugh to come to the desk for a little discussion on this matter. There are two aspects of AM1528 that appear to the Chair to be nongermane. One is the eligibility requirements regarding the CHIP program. That's not addressed at all in the underlying bill which was heard in General Affairs Committee. And then there's this question of the raising of the cigarette tax, which again was not addressed in the underlying bill. So those are two issues that both raise the germaneness matter and it's the ruling of the Chair that the AM1528 is not germane. Senator Cavanaugh.

CAVANAUGH: I'd like to move to overrule the Chair.

FOLEY: There's been a move to overrule the Chair. Pursuant to rules, every member can speak one time. You may not yield time to another member. Senator Cavanaugh, I'll let you open and close on your motion to overrule the Chair. Senator Cavanaugh, you're recognized.

CAVANAUGH: Thank you, Mr. President. I am moving to overrule the Chair because I do believe that my amendment is germane to Senator Briese's underlying bill. I am happy to bring an amendment to my bill to strike the part that increases eligibility for CHIP. But I do still

Floor Debate  
May 01, 2019

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believe that my underlying amendment, including the tax increase, is germane to this bill. It opens up the same statute and the same section of statute of the tobacco bill. And so with that, I will leave it to my colleagues.

FOLEY: Thank you, Senator Cavanaugh. Members, there's quite a few of you who are in the queue presumably to address the bill, but I will recognize you in order. You can either speak to the bill, you can speak to the germaneness question, your call. Anyway, Senator Morfeld, you're first in the queue.

MORFELD: Thank you, Mr. President. Colleagues, I rose to support the amendment. And I'll have to consider where I'm at, at the motion to overrule the Chair. And I'll listen to debate carefully on that issue. But I did want to talk about Medicaid expansion a little bit, which is a surprise probably to no one in this body. Whether or not we pay for Medicaid expansion with Senator Cavanaugh's mechanism and proposal or some other way, we're going to pay for it one way or another. And with the Governor's most recent proposal with the Department of Health and Human Services, they would like you to pay a lot more than what we actually need to with their unnecessary requirements that are, quite frankly, intentionally meant to keep certain people off the rolls while still accomplishing actually spending way more in government and taxpayer funding to achieve Medicaid expansion, which makes absolutely no sense. It seems as though this administration is only incur-- only interested in making investments in the Department of Health and Human Services when it makes things more complicated, more cumbersome, and kicks people off services that they are statutorily entitled to. Never before have I seen someone so skilled as our Medicaid director at saying so much but saying so little at the same time through "constructs" and "swimming lanes" and all kinds of other nonsense that nobody can fully understand. But one thing is always clear at the end of it: We're more confused than when we came in. It's because that's what they want us to be. They want us to be confused. They want us not to understand what they're doing. They want us to give \$17 million more in administrative fees and not tell us exactly what it's for. It's for unnecessary provisions that they are putting into place through administrative fiat that we have no control over, and yet they want us to pay tens and millions of dollars more in and cover less Nebraskans. It makes no sense. And they do it under the guise that they're trying to create life supports and-- and to help out Nebraskans. When this has been proven in many other states to simply deny coverage to eligible Nebraskans who would otherwise be eligible, who would otherwise receive incredibly important benefits, incredibly important benefits that makes Nebraska more competitive in the work force, makes Nebraskans more healthy, saves Nebraska counties, local governments, and the state more money. These work requirements, which are completely unnecessary, not authorized by the Legislature, will cost us tens of millions of more dollars. It will cover less people. In Alaska, they estimated that it was going to cost them \$78.8 million to be able to implement, track, and monitor work requirements over the course of six years. In Louisiana, \$4 million a year alone; in Michigan, \$15 to \$30 million a year. All of these requirements not required by statute, not

Floor Debate  
May 01, 2019

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required by the law that was passed by the people and not authorized by the Legislature. And yet, we remain silent on it. We remain silent on it. We'll probably continue to remain silent on it, I won't anyway but many of you will despite all the pontificating that we had on the floor about following the will of the people, respecting the will of the people when it came to the death penalty. But when it makes it so that Nebraskans can be alive and thrive and make sure that our economy is open and successful, silence, silence when it comes to the will of the people to ensure that Nebraskans have the basic supports to be able to take care of them and their families. This 1115 waiver is so vindictive in the sense that--

FOLEY: One minute.

MORFELD: --they are going to achieve it not just with the Medicaid expansion eligible population but they're going to put the current Medicaid population at risk of losing their current benefits just so they can spend tens of millions of more dollars in our taxpayer dollars, the ones that they said they cared so much about in opposing Medicaid expansion, to make it so that less people can be on it, less Nebraskans can get care, less Nebraskans can go to work and make our economy thrive. This is the administration that we are dealing with and anybody who gets up here and says that it's to make it so that Nebraskans have more supports is either lying to themselves or lying to the Nebraskans. Thank you, Mr. President.

FOLEY: Thank you, Senator Morfeld. Senator Briese.

BRIESE: Thank you, Mr. President. I-- I maintain that AM1528 is not germane for the reasons I indicated earlier. And simply the fact there are some germane components to that doesn't make the amendment germane. The rule could be so easily circumvented if we would allow that to happen. If we have blatantly nongermane amendments or nongermane components to any amendment contained within, the entire amendment should be ruled not to be germane. I'll stand by what I said earlier. Several components in there, four or five components, in my view, are not germane; hence, the entire amendment is not germane. Thank you.

FOLEY: Thank you, Senator Briese. Senator Cavanaugh.

CAVANAUGH: Oh, thank you. I guess I didn't realize I was in the queue again. Am I able to yield time?

FOLEY: No, I'm sorry, you can't.

Floor Debate  
May 01, 2019

---

CAVANAUGH: OK. Well, then I will continue where Senator Morfeld left off, the importance of Medicaid expansion. And we have an opportunity here today to provide fully funded Medicaid expansion to the people of Nebraska while also reducing healthcare costs in Nebraska by over \$900 million. This is a significant thing that we, as the body, can do and I believe that my bill is germane to the tax bill, the tobacco bill, because it opens up the same statute, which is extremely important, and not just the same statute but the same section of statute. Nebraska's smoking population is 15.4 percent of adults and it costs each of us \$737 per household per year to subsidize the healthcare for those adults that are smoking. This impacts everyone in this room's pocketbook. Whether you're a smoker or not, it impacts you. This impacts farmers, this impacts schoolchildren, this impacts business people. This is an opportunity for us to do a tax that will do something proactive for our healthcare in this state and proactive for our budget in this state. And I think it's worth having the conversation, even if it's not germane. I think it's more than-- more than worth it to have the conversation about the lives we could save with this legislation and what we could do to bring our state forward in healthcare and in a healthy budget. Thank you.

FOLEY: Thank you, Senator Cavanaugh. Senator Chambers.

CHAMBERS: Mr. President, members of the Legislature, you all may not respect your white folks' rules, but I do because they would bind me. I want to read you all something on point of personal privilege. Look in-- at page 12 of your book. And some of you have come to me about points of personal privilege and I've told you the order in which they are taken. Section 11 of Rule 2. "Personal Privilege. Personal privilege shall be, first, those affecting the rights, dignity, and integrity of the Legislature collectively; and second, the rights, reputation, and conduct of members individually. They shall have precedence over all other questions except motions to adjourn. Personal privilege shall not be used to permit any discussion or debate pertaining to any measure pending before the Legislature. All questions of privilege shall be channeled through the presiding officer, who shall determine their order of consideration." A person should not be recognized on a point of personal privilege to discuss something before the body. Now you've got somebody in the Chair who has already, in the past, made rulings to favor the Republican Party and the Governor. He has done it. And you all roll over and swallow spit and take it, but I won't. I'm going to do what I can to kill this bill and if I can't kill the bill I'm going to kill some time, because I said what I'm going to do. The bill takes secondary importance now. And I'm going to take time, time, time. And the Speaker has told us we'll stay till 9:30 and we can stay until 11:59, and that's fine with me. How long can you all last? How long before you will wear down? I don't even care about this discussion on this particular bill because I know what I'm going to do on the bill and you can't stop me. And that man in the Chair can't stop me because I'm going to do it by the rules, the white people's rules, which they don't have to follow. And if my buddy says something that's inappropriate, my white buddy in the Chair is going to make it all right. And you are going to go along with it, but I'm not. And if he rules me out of order and the Rule Book says I'm in order, I'm not going to sit down. And he can call the troopers if he

Floor Debate  
May 01, 2019

---

wants to. He can call the Red Coats if he wants to. And I want to serve notice to them, if I'm within the rules I will fight for my right to be on this floor and do what I'm allowed to do under the rules. And I won't let him or them stop me. Now, they got guns. They might have Tasers. So physically, they can stop me, but that's what it's going to take. You all have lost control this morning because you got a man sitting up there who is the flunky of the Governor and doing the Governor's will and he has done it before. He ruled one time when we were discussing rules that all of the votes for Chairpersons must be on the board. He ruled that. That was his rule. That's what you all are dealing with. And you want to talk about order. You want to talk about rules. You want to talk about respect for the law and that black people don't respect the law. You know why white people get away with it? Because they are the law and the law is what they say at the moment. I ask him, could I stand up and say I have a point of personal privilege on anything that comes before us? He did-- he doesn't have to read your rules.

FOLEY: One minute.

CHAMBERS: He's the rule maker and he's the rule breaker, and he knows that all of you flunkies who are "Repelicans" and follow the will of the "Repelicans" and the Governor will uphold him to the derogation and diminution of your branch of government. And you want me to respect it? I'm the only one probably who does respect it. Why should I even care? Because when I gave me affirmation I said I would discharge the duties of this office to the best of my ability, and apparently my ability is a lot greater than you-all's collectively. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Bolz.

BOLZ: Thank you, Mr. President. I rise in support of Senator Chambers. He is absolutely correct about this issue, and this is not the first time that we have had a point of personal privilege not managed correctly on this floor. A couple of years ago we had a Senator who misused a point of personal privilege to speak for an exceptionally long time and was not appropriately cut off. And I brought a rule change this year. I brought a rule change this year to try to put parameters around points of personal privilege to ensure that they were appropriately utilized on this floor. That rule did not move forward and I had a face-to-face conversation with the Speaker in his office about how important that was, about how important the presiding officer was in managing the floor debate and in making sure that points of personal privilege were appropriately used. If you don't understand the rules, you don't get a pass. If you don't understand the rules, you shouldn't just get a-- a pat on the back and allowed to slide through. If I had accidentally said I meant to overrule the Chair went I meant to divide the question, would someone fix it for me? If I meant to say I'm challenging germaneness when really I-- I wanted a bracket motion, would-- would somebody fix it for me? I don't think that's fair. I don't think that's appropriate. And we

Floor Debate  
May 01, 2019

---

have had questions around the appropriate uses of points of personal privilege on this floor. We were assured that the people who were sitting in the Chair understood the rules and would manage them fairly. Senator Briese clearly said that he wanted a point of personal privilege. He needed to name a different motion if what he wanted was a point of order. Rules matter. Rules matter not just because that's how democracy work-- works, and rules matter not just because we all need our fair say. Rules matter because they protect the dignity and civility of debate on this floor, which has been lacking in this session. So I stand in full support of Senator Chambers. I think he's absolutely correct. And when my time is up, I'd like a point of personal privilege, because apparently that's how we do it now. Apparently, that's an OK thing to do now. So I-- I-- I am-- I'm not pleased with this ruling and I don't think it should have been allowed to proceed, and I'd like to be recognized for a point of personal privilege because I'm done speaking on this time but I've got more to say.

FOLEY: Senator Bolz, for your benefit and the members' benefit, Senator Briese came to the desk and told me he was going to challenge the germaneness of the amendment, which is a point of order. And I said that I would then recognize him. When-- when the previous speaker had finished, I would recognize him to-- for his motion to challenge germaneness. When I did recognize him, he misspoke. Senator Vargas, you're recognized.

VARGAS: OK. I was going to-- first of all, I'm in full support of Senator Chambers in this and I'm in full support of our rules. This is actually not inherently about Senator Chambers. This is more about our rules. For the President, I appreciate you clarifying. I think it would have been more apt if we stopped everything at that moment and then asked Senator Briese to then bring a separate motion for clarity and transparency for the body. We are having trouble when we can't abide by the rules. I want to have certainty that when these rules are applied, no matter who the person is, that they'll be applied equitably and fairly. I'm not sure if they will be. I hope they will. But as a result of debates like this is how we can then make sure we are standing by the rules and holding them up rather than pushing past them and making an exception. So I still think there's a need to clarify, not only from the President but for us in this debate, what just happened. I appreciate-- I actually ran over to Senator Chambers immediately because I wanted a reference, because obviously this is a learning opportunity for all of us, right, to some extent. Maybe some of you knew what was actually happening, but in the end, you could see the language that very specifically states on what you can use points of personal privilege for. There is a component there that gives the power to the presiding-- the presiding President to then create the order, but it does not give them the ability to then supersede that. It would have been, obviously, to Senator Chambers' point, more apt to then bring a separate motion or to withdraw the-- the-- the motion of the point of personal privilege. I'll move on from this. I am concerned about this and I would like more clarification and more transparency in the future. I wanted to make sure to say that. But in regards to germaneness, making sure we're abiding by the rules, I respect Senator Briese and-- but I-- I don't see a question of germaneness. And I'm really trying to stick to this and-- and

Floor Debate  
May 01, 2019

---

my hope is actually we debate the amendment instead and that we-- we move on. Debate the amendment, and the amendment fails or it lives, so we can move forward. But if we're looking specifically at page 49 and we're looking at language for germaneness, germane amendments relate only to details of the specific subject of the bill and must be a natural and logical sequence of the subject matter of the original proposal. A nongermane amendment includes one that relates to a substantially different subject. What is in front of us and what will have to be proven is whether or not this is a substantially different subject. In order to uphold our rules and what they mean, I'm asking the body to then not support this germaneness question because it is very clear, if you look at the statutes that are being touched and the subject matter, it is related. Then let's get over to the actual debate on AM1528 and then we can-- it can live or it can die. But if we are to uphold this germaneness, knowing it is the same subject matter in the same lines of statute, we are going down a very, very tricky path. So, colleagues, I ask you to not support this germaneness and then move on so that we can debate the amendment, given that it does touch their specific similar subject matter and similar statutes. That is the best pathway forward. Thank you very much.

FOLEY: Thank you, Senator Vargas. Senator Slama.

SLAMA: Thank you, Mr. President. I think Senator Vargas raised a great point in his turn at the mike in that this is a great learning experience, regardless of where you fall on overruling the Chair, of learning the rules as we get into the more intense debates that will be coming up in the next few weeks. So I hope everybody is here on the floor taking notes because this is a really good review of the rules. And if you haven't had a chance to break open the Rule Book, I'd suggest you start reading through it now. But also on Senator Vargas' point, I would like to address a concern I have with the amendment. I don't believe that it's germane to LB397, but I also have a concern. On page 1, we state that: Whoever, being a minor under the age of 18 years, shall use any tobacco products in this state, shall be guilty of a Class V misdemeanor. Well, tobacco products is a new phrase defined under this amendment. And that is defined on page 2 as, "Tobacco product means any product that is made from or derived from tobacco, or that contains nicotine, and that is intended for human consumption or is likely to be consumed." That inclusion of the language "or that contains nicotine" presents no limits as to the nicotine level in the tobacco-- in the tobacco product definition. To me, that opens the door for foods which have naturally occurring nicotine to be covered under this section, like tomatoes, potatoes, eggplants, certain teas, peppers, and cauliflowers. So I have some real concerns that, thanks to a definitional gap in this amendment, if it's ruled somehow germane and we adopt this amendment and pass the bill, that we're going to be hauling in minors for eating eggplants and charging them with misdemeanors. So thank you, Mr. President.

FOLEY: Thank you, Senator Slama. (Visitors introduced.) Senator La Grone.



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

Floor Debate  
May 01, 2019

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La GRONE: Thank you, Mr. President. I rise in opposition to the motion to overrule the Chair and there's two points I want to address: number one, this question of whether Senator Briese's point of personal privilege could be recognized as a point of order; and then second is the germaneness question. So on the first question, the way I read the rules, I think that the President was-- President Foley was-- had the discretion to recognize Senator Briese's point of personal privilege as a point of order. That's not something that's addressed specifically in our rules. And when that's not addressed in our rules, we fall to "Mason's Manual." And on "Mason's Manual," Chapter 24, Points of Orders, Section 240, number 1, it is the duty of the presiding officer to enforce rules and orders of the body without delay and without waiting to have the presiding officer's attention called to breaches of order, which gives the presiding officer broad discretion to recognize a point of order when one is occurring. And since Senator Briese spoke to President Foley prior to making his point of personal privilege, which was really a point of order, President Foley knew that it was a point of order and, therefore, under my reading of the rules, it fell within his discretion to recognize it as such even though the wrong word was used. So I don't think that that was some breach because I think it clearly falls within the discretion given to the presiding officer through "Mason's Manual." Now on the germaneness question, I think it's kind of gray here because it does have a provision that is germane, but then the vast majority of the amendment is not. So when we have a very gray question of germaneness that I think could go either way, I'm not going to vote to overrule the Chair unless it's clear that the Chair is wrong. So I think those are the two issues before us. I think the President had clear discretion, under "Mason's Manual," to recognize the point of personal privilege as a point of order and that I do think it's a close call on germaneness. And because it is so close, I'm not going to vote to overrule the Chair. Thank you, Mr. President.

FOLEY: Thank you, Senator La Grone. Senator Hilgers.

HILGERS: Thank you, Mr. President. Good morning, colleagues. I rise really just to speak about I think an important procedural point which Senator Chambers has spoken about. I don't intend to weigh in at the moment on the germaneness question, but it's this question of the use of personal privilege and the point of order. And I-- I would ask Senator Chambers a question if he would yield.

FOLEY: Senator Chambers, will you yield to a question, please?

CHAMBERS: Yeah. Yes.

HILGERS: Thank you, Senator Chambers. So just so I have your position correct, it-- you-- you believe someone can-- it is true that someone can raise a point of order even if they're not the next speaker in the queue.

Floor Debate  
May 01, 2019

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CHAMBERS: Yes.

HILGERS: OK. Thank you. Thank you, Senator Chambers. I may have one follow-up before my time is up. Thank you. So I think that's an important-- a very important point. So the first question is-- is whether, you know, whether or not a point of order could be raised when someone's not the next speaker in the queue. And I think that, that-- that answer is clear. Now the next question is whether or not the-- the Chair, the President, has discretion in interpreting a point of personal privilege as a point of order. Now I think the Chair, I think articulated by Senator La Grone, the-- the Chair has discretion and the authority to be able the help move proceedings along and where something-- where one is intending to move-- in order to prove the process along you sort of look past form to substance. I don't think it's inappropriate for the Chair necessarily to do that. And so I think here, as I understand it, there's-- there's two ways this could have gone. One is I suppose a point of personal privilege could have been-- there could have been a ruling to say, hey, well, that's not a point of personal privilege. Senator Briese would have sat down. Then Senator Briese could have immediately stood up again, been recognized. He wasn't next in the queue. Could have been recognized and the Chair-- and then at that point could have said point of-- I would like to have a point of order. At that point of order would have moved forward. So the question then is whether or not it is appro-- it is only appropriate for the Chair to have-- to have-- have that sort of sequence move where they have to sit down on the personal privilege, sit up again on the point of order and then make it right, versus clarifying that this is a point of order. Even though you misspoke, it's a personal privilege, I understand from our conversations of what you're trying to do that this is really a point of order, reflecting that in the record. That doesn't strike me as inappropriate. It does strike me as saying it elevates a little bit form over substance to say that that has to-- it has to occur that way. Now I had a conversation with Senator Chambers off the mike and he made a good point that if you're in a courtroom and you file a motion, if I were to file a motion and I'm an attorney especially, it's a little different for pro se plaintiffs or-- or movants, but if I file a motion that says I want to move to-- for summary judgment, but I'm really asking for some-- something-- a different kind of relief, the court tends to not give you any leeway there. The court tends to say, no, no, no, you know, we're going to just take you at your word, whatever it is that you're saying; the substance of what you're asking for, we're going to ignore that. And they might deny for that reason. It's a little different I think in the sort of the context which I think is more similar to what we're dealing with here, which is if you're in court and you're arguing, you're debating with the judge and it's more give-and-take, it's not in writing but it's just a-- it's an oral back-and-forth. So if this was a courtroom and I had misspoke to the judge and I'd said, you know, I'd like to, you know, do one thing and not another, and if it was a form question and not a substance question, the court could tell, it wouldn't be unreasonable for-- for the court to correct that or for that-- for ultimately my request to be interpreted for what it was. Here I think, I think the Chair, to be able to, you know, recognize Senator-- the substance of Senator Briese's objection, I think, I think was fair game. I think if-- if, however, the point of order couldn't be brought at any time, then I think

Floor Debate  
May 01, 2019

---

that would be a real-- that would be a separate question. Now I think Senator Chambers and I-- he might speak again. I don't know if he's got any more time. I don't think I can yield him time. He and I had a separate conversation about what would happen if someone challenges a point of order. In other words, if someone is out of order and another senator believes that that senator is out of order, what will happen then? And I think that's a separate question. The end of the day, our rules matter a great deal. I also think that it's important, in order to-- as long as we're not subverting our rules or modifying them in a way for a long term, to be able to say, hey, look, we're not going to elevate form over substance; we're going to allow the substance of the objection to move forward. I don't think that-- I don't think that was unreasonable. And I will say on the point of personal privilege, I-- I don't think I've ever taken one in this body. I would, quite honestly, I think they, you know, what did we have, seven of them last, last week?

FOLEY: One minute.

HILGERS: Thank you, Mr. President. I think it's-- I think our rules matter and I think points of personal privilege have been used quite a bit here in this body. And I think it's a little bit to get to say, well, on the one hand Senator Briese's is not, what he did was inappropriate when he clearly was rating a-- raising a point of order based on the substance. On the other hand have all the points of personal privilege that we have in this body I think, I think is a little bit inconsistent. So with that, I actually haven't taken a position on the germaneness question. That question of the point of order I don't actually know would be actually addressed in this motion to overrule the Chair. I think it's on the germaneness question itself and not the process. But I'll-- I'll listen to any further debate on germaneness. Thank you, Mr. President.

FOLEY: Thank you, Senator Hilgers. Senator Lathrop.

LATHROP: Thank you, Mr. President and colleagues. Good morning. I'm going to pass on the issue raised by Senator Chambers and just addressed by Senator Hilgers and go to germaneness. And this is a teaching moment and I think it's important that we have this conversation. So we are on day sixty-nine and so you're going to start seeing bills that come to the floor and some of those orphans that have been let out of committee are floating out there and people are going to be looking for someplace to hook them on, right, 'cause they're not priority bills. They may be ideas that didn't catch on in committee. Or maybe they made it out of committee and now they're just sitting there without a priority designation. You will begin to see more and more of these at day sixty-nine until day ninety. Germaneness is important, and this is where you have to be more judge than politician, I will just say, because the question is going to be, how much of a nexus do you, and you need to be consistent about this. It's not about your friends and it's not about who you go to lunch with. It's not about whether you agree or disagree with the ultimate amendment. What it is about is whether there is a sufficient nexus. Germaneness should never be used as a

Floor Debate  
May 01, 2019

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way to kill something or get something off of the agenda or away from our consideration because you don't like it. Germaneness is only about the nexus between, in this case, LB397 and AM1528, right? This is where we have to do something that we-- we oftentimes don't do when you decide am I going to support a proposition or am I going to oppose it? Do I give it a green light or a red light? Because this is about, it's going to happen on one of your bills, it may be something that you want to amend into. And now we're going to-- now we're going to answer a question for the first time how much of a nexus does this body need to see between the underlying bill and the amendment. And understand that should not be a moving target. It shouldn't. What degree of connection or nexus that you need to see should not depend upon whether you agree with the bill, or the amendment, rather, or not, or whether it's a friend of yours or somebody you may share the same party with or somebody you may go to lunch with. You got to be prepared to say it's not germane even if it's a friend of yours, because this is how we run the place and we got to be straight up and honest about that. In this case, we have a bill that deals with the tobacco fund, right? So we're dealing with tobacco. And Senator Cavanaugh's amendment also deals with tobacco or tobacco tax. I personally believe that that is a sufficient nexus for germaneness. You will have other cases where it's going to be a closer call and some where you're-- and you may not agree with me. But one thing you need to do today is understand that you've got to be consistent in the amount of a connection you need between the bill and the amendment to say yes or no. The Chair has ruled. It's now in our hands and we get to make that call. I think that overruling the Chair, and there's nothing wrong with that, by the way. There's no presumption that attaches to the decision made by the Chair. That's their-- that was the presiding officer's decision and now it's left to us. Is there a sufficient connection? I believe there is because we're dealing with the Tobacco Settlement Fund and the tobacco tax. Now if you overrule the Chair, we'll take up the amendment. If you don't like the amendment, then it goes down. It doesn't get sufficient votes and we dispose of it in that fashion. But do not, please, do not now or going forward use the germaneness argument as some way to rally the troops against something that you just don't support at the end of the day, because that's not--

FOLEY: One minute.

LATHROP: --the purpose. Did you say time?

FOLEY: One minute.

LATHROP: OK. Thank you, Mr. President. That's my point. I do think that there is a sufficient nexus, in my judgment, so I'll be voting to overrule the Chair. And I would hope that when these things come up it's not partisan, it's not who your friends are, and it's not used as a shortcut to take something off of the schedule for our consideration. Thank you, Mr. President.

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

Floor Debate  
May 01, 2019

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FOLEY: Thank you, Senator Lathrop. Senator Wishart.

WISHART: Thank you, Mr. President. I rise in support of the motion to overrule the Chair. I do think this is germane and-- and I think Senator Lathrop explained it well. And actually I have some concerns with AM1528 so I may not be supporting that amendment, but I do think it's germane. I did want to back up and talk about what got us here and-- and add to the learning experience that we're having this morning around the-- the rules. I recognize that, especially with term limits, there are going to be many of us that do make mistakes, but there are consequences for mistakes that are made. And we do need to-- to-- we do need to follow the rules. And so I did want to alert the body that we do, in our Rules Book, we have a section that spells out what should happen when a-- when there is a transgression of the rules and what the presiding officer should do. So if you are all still reading from your Rules Book, please go to page 11, Rule 2, Section 8, "Transgression of Rules, Call Member to Order." "If any member, in speaking or otherwise, transgresses the Rules of the Legislature, the presiding officer shall, or any member may," in this case Senator Chambers attempted to do that, "call such member to order, in which case he or she shall immediately sit down, unless permitted on motion of another member to explain, and the Legislature shall, if appealed to, decide the case without debate. If the decision be in favor of the member called to order, he or she shall be at liberty to proceed, but not otherwise, and if the case requires it, he or she shall be liable to censure or punishment as the Legislature may deem proper." So I do want to acknowledge that we do have a section in our Rule Book moving forward that is there to address when a senator, even if it's a mistake, transgresses the rules. Thank you.

FOLEY: Thank you, Senator Wishart. Senator Cavanaugh, you're recognized to close on your motion.

CAVANAUGH: Thank you, Mr. President. Thank you, colleagues, for standing up today to speak on this issue. I intended for us to have a conversation about the amendment, and I realize that it may not be a popular amendment. But I firmly believe that it is germane. It opens up the same statute, it opens up the same section of the statute, and that should meet the qualifications for germaneness. Even if you don't like my amendment, you have the opportunity to vote against it or I may even not continue with it. We'll see. But I think this is an important moment for us as a body to look at things, as Senator Lathrop described, as to just on-- on the value of whether or not it's germane, not whether or not you like the-- the amendment. I spoke to Senator Briese in advance of even bringing this amendment. I didn't try to trick him. I let him know that I wanted to have this conversation, that I think this is an important conversation for us to have. And while he was not thrilled, he was still supportive of me doing that. And so I appreciate his willingness to let me have this exercise with all of you. I really-- I-- I think everyone should just, I hope, take a moment to consider the germaneness issue, and other bills coming up, as Senator Chambers has talked about and Senator Lathrop have talked about, that the precedent that it sends to say

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

Floor Debate  
May 01, 2019

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that a bill that opens up the same statute and the same section of that statute is not germane, you're setting a dangerous precedent for the remainder of this session. And I caution this body against doing that. You do not have to support this amendment, but I caution you against saying that the same statute, same section of that statute is not germane, because we will be seeing amendments on things and we have seen amendments on bills already this session that could have been questioned on germaneness for much less, much more tenuous germaneness than this bill. So I ask for you to support my motion to overrule the Chair and I ask for you to support my germaneness. And with that, I will leave it to you.

FOLEY: Thank you, Senator Cavanaugh. The question before the body is whether or not to overrule the Chair. Those in favor vote aye; those opposed vote nay. There's 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.

ASSISTANT CLERK: 25 ayes, 3 nays to go under call, Mr. President.

FOLEY: The house is under call. All members please return to your desk and check in. The house is under call. Senator Stinner, if you could please return to the Chamber. The house is under call. A roll call vote in reverse order has been requested. Members, we have 48 members present on the floor. This is a motion that requires a majority of those voting, so it will require 25 votes. The question before the body is whether or not to overrule the Chair. There's been a request for a roll call vote. Was that reg-- I'm sorry. Was that regular order or reverse? Reverse order. Mr. Clerk.

ASSISTANT CLERK: (Roll call vote taken.) Vote is 20 ayes, 27 nays, Mr. President, on the motion to overrule the Chair.

FOLEY: Motion not successful, I raise the call. Debate is now open on LB-- excuse me. Mr. Clerk.

ASSISTANT CLERK: Mr. President, I now have a priority motion. Senator Chambers would move to bracket the bill until June 6.

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

CHAMBERS: Thank you. Mr. President, members of the Legislature, whenever we have a motion and a number is in it, if that form of the motion fails, change the number and it's a different motion. I can walk us back from June 6 until today and take all of the time on that one

Floor Debate  
May 01, 2019

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motion. I'm going to take time on this bill. You all disregard your rules and the Speaker does-- the Attorney General-- I'm deliberately going down the list to come to the Lieutenant Governor. I'm going to parse this rule for you that Senator Wishart read to you, and you'll see that everything I did, even though the Chair had them turn off the mike. On page 11, you'll find Section 8 of Rule 2: "Transgression of Rules, Call Member to Order. If any member, in speaking or otherwise, transgresses the Rules of the Legislature, the presiding officer shall, or any member may, call such member to order," I immediately call that member to order, "in which case he or she shall immediately sit down." Did you all hear me tell, holler out, Senator Briese, you ought to just sit down! Did you all hear me say that? That's what the rules says, but that man sitting up there doesn't have to follow the rules because he's in the Governor's Office. I'm going to continue. I'm going to tell you all something. It's hard as Hades to be a black man in a white organization where they have rules and they don't follow the rules but the black man must. Then the black man is required to go and read, word for word, what their rule is that they're not going to follow anyway. But let me continue, "in which case he or she shall immediately sit down, unless permitted on motion of another member." Did any other member make a motion to let him continue? There was no motion made and you don't need to interpret what is clear. When Senator La Grone and Senator Hilgers want to say, well, the Speaker has, or whoever is in the Chair, has the leeway, has the prerogative, that's not what the rule says. Let me read the rule, "in which case he or she shall immediately sit down, unless permitted on motion of another member to explain." If no member made a motion, that person sits down and it's over for him or her. Then they turn on their light and speak when they're recognized, or could ask for a point of order. I shouldn't tell you how to interpret your rules, but you all don't care about them. And the Lieutenant Governor doesn't know them, and he doesn't have to know because he's white, a white man. You think he has to follow the rules? How naive are you? -- "and the Legislature shall, if appealed to, decide the case without debate." I'm giving you all time to read it. "If the decision be in favor of the member called to order, he or she shall be at liberty to proceed, but not otherwise." No member made a motion. He was allowed to proceed because the Lieutenant Governor feels that your rules are what he says they are. He abolished the rule. I don't care what Senator Hilgers says. I don't care what Senator La Grone says. I care about what your rule book says. I said when I came down here I'd learn your rules and beat you at your own game. Yeah, if you're going to play by your rules, I'll beat you. But if you've got a white man who can say, well, when Chambers stands up, the rules go out the window, I, the white man, will change the rule, because he's just a black man, and when has a black man ever had the same status as any white man? Don't you all remember what that Roman Catholic, which is the same as that man sitting up there, that Roman Catholic in the Dred Scott decision, Roger B. Taney, spelled T-a-n-e-y, said a black man has no rights which a white man is bound to respect. He believes in Taney. He believes in the Dred Scott decision. This black man has no right which he as a white man is bound to respect, even when he's sitting in that chair. You all don't need to get nervous. You all sat here and saw it this morning. You'll swallow spit but I won't. And I said I was going to kill this bill. Maybe I can't kill it, so I'll kill time. And I assure you, brothers and sisters, friends, enemies, and neutrals, that

Floor Debate  
May 01, 2019

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is what I'm going to do. Now find a rule to stop me. Find a rule to stop me. I'm the one who showed you all how to jump to the front of the line, didn't I? Offer a priority motion. You all didn't know that. I taught you. You all hate me, have contempt for me, no respect, but I teach you, in spite of yourself, how to get into the line to say what you want to say when you're too far down on that Speaker's order. And you don't recognize it, you don't appreciate it. Now all I'm saying, tell me, are you going to follow these rules or not? Are the rules just to apply to me when they can conveniently be used to try to shut me up? Is that what you want? And there's Senator La Grone, appointed by the Governor, so he's in league with the Lieutenant Governor and he's trying to find a way to let the Lieutenant Governor get out of abolishing the rule. Abolish the rule and say, well, he has the prerogative to keep things moving by interpreting. Is he a mind reader? Is the Lieutenant Governor a mind reader? Well, he read Senator Briese's mind, but I told Senator Briese what the rules say. So the Lieutenant Governor told the youngsters up there, shut him off. So I increased the volume of my voice and I said what I was going to say and that I would not be silenced, even if he had them to turn off the mike. And I also told him, he can order these other white men back here to come and grab me. I want him to do that. What kind of man is he? Let him use that authority now, order them to come set me down or drag me out of here. And if they come to get me, if you don't knock me unconscious immediately, there's a price you're going to pay. Test this old man who makes these kind of statements. If you think that I'm as weak as cream, I'm like this pad of paper, I can't tear it, I can't even tear a pad of paper, I can't even tear a pad of paper, what could I do to a grown man who's going to try to stop me, or several of them? I think what the Lieutenant Governor ought to do is deputize them and declare them a lynch mob and tell them to go back to their roots and their origins. This place is not a place of lawmaking. It's a place of lawbreaking by those who have a duty to uphold the law. You all are the master race. I'm the inferior one, based on your position. You should show me by example what your rules mean. I'm the one who's always making the appeal to your rules. Do I think you follow your rules? Of course not. Then why do I make an appeal? Hoping I can embarrass you. But when we have set-tos like this, the white media protect you all. They don't print what happened. The white media don't print what happened. But fortunately, there are people outside of this Chamber who do watch us and who are aware. And if there was such a thing as polling them, even though they hate me because they're just like y'all, you all-- was Chambers right if what he read in the rule book is correct? Did he follow the rule when he called the Speaker the-- when I say that, I meant the one speaking to order-- is that what the rule allowed Chambers to do? Yes, not just Chambers but any member. And then what's supposed to happen?

FOLEY: One minute.

CHAMBERS: The one who is speaking out of order is to sit down immediately. Immediately means with nothing intervening. And he didn't. Well, why didn't the presiding officer tell him to follow the rule and sit down? Well, the presiding officer didn't know the rules. Well, why doesn't



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

Floor Debate  
May 01, 2019

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the presiding officer know the rules? Because he doesn't care about the rules. Well, why doesn't he have to care? Because he's white. Oh, now I get it. This is just like the old days when America was great and he's making America great again in the Legislature. Yeah, this is what Trump means when he says, "make America great again." He, that man I'm pointing to in the front of the room, is the one who violated your rules. But the rule doesn't tell you what to do about him because the constitution ensconces him in that chair, so the constitution placed him beyond your reach.

FOLEY: That's time, Senator.

CHAMBERS: Thank you, Mr. President.

FOLEY: Thank you-- thank you, Senator Chambers. Senator Morfeld, you're-- excuse me. (Visitors introduced.) Continuing discussion, Senator Morfeld.

MORFELD: Thank you, Mr. President. Colleagues, I think this has been informative for all of us. I remember about two years ago we actually spent 40 to 60 days debating the rules and learned a lot about the rules and-- and a lot of things that we didn't know beforehand. I-- I think the importance of the rules-- I think the importance of the rules is that it provides transparency, and transparency breeds fairness and equity and due process for all the members in a fair way. And while I appreciate there was a private, off-the-mike discussion with Senator Briese giving the President heads-up, the fact of the matter is that the rest of the members and the rest of the body were not aware of that, could not be expected to be aware of that and, therefore, responded accordingly. That is why it's important that these things are done transparently and in public. And, believe me, I've made plenty of mistakes procedurally on the floor in my last five years here, and I can't blame Senator Briese for doing that. But that being said, I think it would have been more proper, Mr. President, for you to call them-- him out of order and to start the process over again because otherwise what it does is it breeds distrust in the process. So I appreciate that there was an off-the-mike conversation before the-- the-- the point of personal privilege was made, supposedly the call-- or the-- the point of order. But the bottom line is, is if we start operating that way, then it's going to breed a lot of distrust and, not only that, there's going to be a lot of people that think that they are being treated differently based on maybe their viewpoints or who they are, which I'm not making that accusation today, Mr. President. But what I'm saying is, is that there is a reason why we have rules and we have order, even if that means calling to order a member who is trying to do something else in good faith and that you know it. As far as I can tell and as far as I've read with the bill and the committee statement, I'm in support of Senator Briese's LB397 even without Senator Cavanaugh's amendment. But I think that we all need to take a step back, and I would request that the Speaker take this off of the agenda for the day and that we start over tomorrow, or another day, because process matters. Process matters

Floor Debate  
May 01, 2019

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because it breeds trust, transparency, and equity among all the members. So I'll pledge to you, I will vote for LB397, but not with how it's been handled today. And that's why I would request the Speaker skip over this and we get back to it and we start it with a process that is fair, equitable, and transparent. Thank you, Mr. President.

FOLEY: Thank you, Senator Morfeld. Senator Cavanaugh.

CAVANAUGH: Thank you, Mr. President. I just want to also speak to the rules and that I appreciate the lesson today from Senator Chambers on rules. I think that the rules are really important to this body, more important now than they perhaps were even in the past for the simple fact that we have term limits and without this book to inform us of our protocol, we will come into disarray and all civility will be lost. And I don't think that any of us would want-- wish that upon the future of this body. The rules are important and they were put here for a reason. And if we don't abide by them, then we don't know how to trust one another truly in this endeavor to make our state the best that it can be. It's disheartening when we don't follow the rules. And I would say in life I'm not necessarily a rule follower, but in this Chamber I am, and I work very hard to be a rule follower and to follow not only rules but protocols and etiquette. And I put a great deal of value on that and I thank Senator Chambers for calling that to attention today. And hopefully those of us that are new to this body, or newer to this body, haven't spent 40 years in this body, will take heed and take some time while we're sitting here over the next 20 days, or however many days are left, and look over the rules because they are very important. And I would like to yield the remainder of my time to Senator Chambers.

FOLEY: Thank you, Senator Cavanaugh. Senator Chambers, 3:15.

CHAMBERS: Thank you, Mr. President. Thank you, Senator Cavanaugh. I would like to ask Senator Hilgers if he would yield to a question or two.

FOLEY: Senator Hilgers, would you yield, please?

HILGERS: Absolutely.

CHAMBERS: Senator Hilgers, and I'm not going to go through it all, but you had indicated that maybe if you-- you're in court and you're speaking and you misspeak, the judge may say something. Here's what I'm going to ask you. What does the term "ex parte" mean? What does it refer to?

Floor Debate  
May 01, 2019

---

HILGERS: It refers to a communication with the court where another party-- the opposing party is not present.

CHAMBERS: Now, if Senator Briese and the Lieutenant Governor had a conversation and I, who am concerned, were not in it, could their conversation be deemed ex parte?

HILGERS: If it was a conversation between the two of you-- them and there was no-- and you were not a part of it, I think you, under a definition of the term, you could consider it ex parte, sure.

CHAMBERS: Thank you. And I'm not trying to make it a court proceeding. I'm trying to show that, by analogy, these kind of things have happened other places and there is a way that it's dealt with. The rules of court will not permit an ex parte communication in chambers. The judge cannot meet with one side of the case when the other is not there or is at least given the opportunity to be there. So when we have rules that are written clearly, no interpretation is needed. Senator La Grone even said that on another occasion, that if the words are clear and what they mean is understandable, there doesn't need to be any interpretation. The courts will often say that you don't have to construe or interpret words that are clear. And because my time that was given to me has run out, just about, I will stop at this point. Thank you, Mr. Speaker-- President.

FOLEY: Thank you, Senator Chambers. Senator Howard.

HOWARD: Thank you, Mr. President. I'm going to-- I want to talk about LB397, but before I do that, what we just did was really terrifying. And just to be really clear why, and no one is listening so I guess I'm just talking to my own mom who's watching right now-- thank you, Anna-- Senator Wishart, I'm so sorry. Germaneness is, my understanding, same subject matter, same section. I don't know what's germane if we're not doing same subject matter and same section. Look, I-- look, I literally, as a point-- as a point of process, I don't know what is germane anymore if it is not same subject matter and same section. They were same section. They were same subject matter. Yes, she's directing the funds somewhere else, but it's still about the Health Care Cash Fund and it's still about the tobacco tax and it's still about tobacco. So, I mean, I guess now every amendment is subject to a germaneness question? And that's going to set a very-- a very damaging precedent. I think this is a very damaging precedent. And I apologize, I perhaps should have spoken. Often I think, oh, people are making good points and people will just understand that there are good points being made and I won't reiterate them. But we did something that's fairly damaging in terms of precedent, and it will open the door for other people to start putting germaneness questions on amendments so that we have to debate germaneness even if it's in the same section of statute and the same subject matter. That's germaneness. So I

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

Floor Debate  
May 01, 2019

---

just want to make sure we all understand the gravity of what we have chosen to do this morning. And it's really unfortunate for Senator Briese because his bill actually has merit, and I want to ask him a few questions, if he would yield, about the merit of LB397 and the contents of the bill.

FOLEY: Senator Briese, would you yield, please?

BRIESE: Yes.

HOWARD: So, Senator Briese, I want to-- so LB397 deals with the Health Care Cash Fund. Is that correct?

BRIESE: Well, it deals with the MSA, which is-- MSA dollars are extremely important to the Health Care Cash Fund. I believe we derive 38-- \$36-40 million from the Master Settlement Agreement, dedicate those dollars to the Health Care Cash Fund.

HOWARD: And so when I first heard you introduce the bill, I-- I was concerned that the changes that you were making would reduce the amount that we're getting from the MSA. Can you tell me how LB397 does not reduce the amount from the Master Settlement Agreement that goes into the Health Care Cash Fund?

BRIESE: LB397 protects those MSA dollars, or it's been represented to me that it's necessary to protect those Health Care-- excuse me, those MSA dollars, in particular the bonding statute. We need to have that updated bonding statute to help protect against losses from the SET, S-E-T, paid adjustment. That's one of the more critical pieces there. And the definitions of cigarettes and ENDS, that will enhance in further monitoring and compliance necessary to ensure that we comply with the MSA and ensure delivery of those dollars.

HOWARD: Yeah. And then what are-- what are we using our Health Care Cash Fund dollars for? Why is this important?

BRIESE: I'm not an expert on that. I could look it up and tell you, but I-- I'm not a good one to ask how those dollars are dedicated.

HOWARD: Sure, and I--

BRIESE: I-- I could take a stab at a couple areas, but I'd-- I know I'd miss some and leave some out.

Floor Debate  
May 01, 2019

---

HOWARD: I apologize. I should give you an annual report on it. One of the reasons why LB397 is important is because it's modifying our definitions to ensure that the funds that we're getting from the Master Settlement Agreement that go into our Health Care Cash Fund remain sort of where they're at. With tobacco utilization going down, we've been seeing a reduction in our Master Settlement Agreement funds going into our Health Care Cash Fund.

FOLEY: One minute.

HOWARD: Our Health Care Cash Fund, we're currently using-- and I'll put my light on again. We're currently eating the principal on the Health Care Cash Fund, and we use it for research, we use it for direct services, particularly in mental health and disabilities, which is why we want to make sure that this fund is solvent, which is why when we consider the tobacco tax, and-- and I'll go back to the germaneness, we're already getting-- I think it's \$1.25 million a year from the tobacco tax goes directly into the Health Care Cash Fund. That was done in 2015. And so when we go back to the germaneness question, obviously, Senator Cavanaugh's tobacco tax increase with that overlay of the tobacco tax with the Health Care Cash Fund was germane, but the merits of LB397 are that it helps with the solvency of the Health Care Cash Fund, which ultimately helps with the solvency of the state because it's helping us pay for necessary healthcare items that are in our budget. Thank you, Mr. President.

FOLEY: Thank you, Senator Howard. (Visitors introduced.) Continuing discussion, Senator Chambers.

CHAMBERS: Thank you. Mr. President, members of the Legislature, since we are making a record, I want to be crystal clear on what I am getting at and I want to use words that don't have too many syllables. Rules are designed to govern how a body such as a legislature will proceed. The rules declare what is allowed and what is not. The rules will declare that some things are allowed under certain circumstances. If it's clear what the rule says, it doesn't have to be interpreted by the Chair, whoever is there. If I say, in a bracket motion, I move to bracket this bill until June 6, it's not open to interpretation by the Chair. The Chair may not like what I'm doing, but the Chair is not free to say that motion is out of order. I'm going to tell you why Senator Cavanaugh's motion was voted down as not being germane, because the ones who had the numbers are the ones who won. You were in a posture where you didn't have the rules explicitly saying something, so they came up with this. And it's abject silliness to say that something in the same section is not germane; it's silly to say that it has to be in the same section to be germane. That's what happens when you get new people. They don't understand rulings that have been made in the past. I've heard people jump up here and say it's not in the same section. A lot of things that are talking about the very same subject are not in the same section because the statute books are not written on the basis of what is germane. They are written on the basis of what

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

Floor Debate  
May 01, 2019

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seems logical and where it likely fits. Even if it's unconstitutional, all that the ones who arrange things in the statute books are to do is to look at what that particular law dealt with and then put it in the place it ought to be in the statute book. That's why merely giving the section has nothing to do, absolutely speaking, with germaneness. It's the subject matter. You can have something about that subject on page 1 of the statute book. Something else pertaining to it might be on page 300. Well, as silly as you all have gotten, you'd say, well, it's not on page 1, it's on page 300. But what does it say? What does it deal with? But the "Repelicans" and the "Repelican" Party are running this Legislature, so now they're ruining your rules. If it wasn't me who was involved in this, you think we'd have this discussion here today? Everybody else would have crumbled and folded and been afraid to say something, even if they had it to say. Then you have somebody like Senator La Grone, who was appointed by the Governor, and La Grone, I think, is a lawyer because he said he was. He knows that when you have a rule that's clear, it's not open and subject to interpretation to determine the meaning. It's clear in its meaning. If I make a statement, there are 26 letters in the alphabet, running from A to Z, and I recite all of them, I say C when we start at the beginning of the alphabet, the letter C is the third letter you will come to. That's not subject to interpretation. Fools might argue about it.

FOLEY: One minute.

CHAMBERS: But it's not subject to interpretation. What I'm talking about is so clear that a fool cannot err. Senator Foley-- Lieutenant Governor Foley may be venal, he may be corrupt, but he's not a fool. He can read. And he knows that what he did was wrong, or he doesn't know the rules. It behooves me to know the rules because I'm a member of this Legislature. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Linehan.

LINEHAN: Thank you, Mr. President. I just wanted to take a minute-- my glasses. I know a lot of colleagues have questions about LB289. So what we are going to do is the Revenue Committee staff will hold a briefing on LB289 tomorrow, Thursday, May 2, in Room 1510 at 1:00 p.m. So I know that you'll all want to get out of here and get home, but if-- hopefully, we thought it better, before you go home for the weekend, if you had an opportunity to look at-- look at the bill and if you have questions, we could hopefully ask-- answer those questions. So we're-- we'll welcome all senators and staff, and it's tomorrow at 1:00 in Room 1510. Thank you very much.

FOLEY: Thank you, Senator Linehan. Senator Wishart.

Floor Debate  
May 01, 2019

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WISHART: Thank you, Mr. President. I rise in-- in opposition to the bracket motion and I rise in support of LB397. I would say, though, that I-- regardless of what bill is up there, whether I support it or not, I do think we need to follow the rules and I would really push for the-- the leaders in this room, for us to at least take a pause and follow Section 8 of our rule book. And I-- I agree with Senator Morfeld. I-- I think this bill needs to come off of the agenda right now and-- and we can pick it up either later today in respect for the rules. I'm sure a lot of people listening today, whether they're watching on their TV or those of you who are listening in the Chamber, I'm sure many of you watch professional football, as over the years I've become more and more of a fan and have dedicated myself to-- to attempting to learn all of the rules. And so I'd imagine many of you agreed with the nation when we-- when we-- when we shared in the concerns with some the officiating over the Super Bowl. I-- I think this is relevant to the discussion today in terms of the importance of rules. So the talk of the Super Bowl week is not the everlasting excellence of the New England Patriots. It's not the sideline wizardry of the "Boy Wonder" coach of the Los Angeles Rams. It is, much to the NFL's dismay, the sports officiating crisis. A season's worth of frustrations by fans, players, and coaches bumbled over with missed pass interference call in the NFC championship game that sent the Rams, not the New Orleans Saints, to Super Bowl-- to the Super Bowl to face the Patriots on Sunday. The NFL may have hoped, with an off week for the consternation to dissipate, that one of the most consequential officiating gaffes in league history would be on its way by now to being a fading memory. It's not. The venting and head scratching are going on while many wonder what should be done to fix what appears more than ever to be a broken system. Colleagues, I really appeal to you today, regardless of whether you support this bill, we had a significant enough mistake in terms of following the rules that in order for us to continue to have a process that is fair and transparent, we need to at least break on LB397 and follow what it says in Section 8, on page 11, that if a member of the Legislature calls a member out of order because of a transgression of the rules, then immediately that person shall sit down, that senator shall sit down, and a group-- and the group of the Legislature "shall, if appealed to, decide the case without debate." At the very least, we should pull LB397 off for a moment to follow these rules, reset, and then bring this bill back up. Thank you.

FOLEY: Thank you, Senator Wishart. Senator Hilgers.

HILGERS: Thank-- thank you, Mr. President. Good-- good morning again, colleagues. I do want to-- I'm not speaking on LB397. I do want to just follow up on this-- the rule discussion. I think it's an important one. And we are making a record here. We talk about it often. And the reality is, is that in a year from now or 10 years from now, 30 years from now, someone may be reading this transcript and trying to determine, maybe in a similar circumstance or to educate themselves on the process of the Legislature, determine exactly what-- how these rules are interpreted. And so I think having the back-and-forth and dialogue is helpful. I don't want to speak for the Clerk, but I'm sure he's at least somewhat pleased we're talking about the rules to some degree today.

Floor Debate  
May 01, 2019

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And so I-- I just want to-- I'm going to ask Senator Chambers a question. He and I have had-- in a second. We've had some conversations off the mike but I-- there's-- there's a couple of different rules in play. The first is whether or not the-- whether or not Senator Briese doing it under-- by saying personal-- a point of personal privilege, whether or not that itself was out of order and whether or not it was the Chair's discretion or the President's discretion to say, hey, based on the knowledge that I've got, the substance of what you said, I-- I-- I rule that-- I find that to be a point of order and matter of substance and I find that in order. You may take the position that, no, what should have happened is, you know, Senator Briese should have sat down and then called on again for a formal point of order. I-- I don't-- I don't think-- you know, I think the discretion-- or the Chair has discretion in order to make things move forward as long as that's clear on the record what's happening. I do agree if it's not clear and someone looks back on this in ten years and says, hey, wait a second, that was a point of personal privilege, why are they-- why was that allowed in this way? I agree. But I think if the record is clear and-- and-- and the body is informed, I-- I don't think that's an unreasonable exercise of discretion. So the-- the next point, though, is the one that Senator Chambers has talked about which is on Rule 2, and that's Section 8, on page 11. And if-- if Senator Chambers would yield to a question.

FOLEY: Senator Chambers, would you yield, please?

CHAMBERS: Yes.

HILGERS: Thank you, Senator Chambers. You and I have had some conversations about this. So as I read it, it says, "If any member, in speaking or otherwise, transgresses the Rules of the Legislature." You've read that a couple times, haven't you?

CHAMBERS: Yes.

HILGERS: In your opinion, who determines whether the rules have been transgressed as it applies in Section 8?

CHAMBERS: Based on the wording of the rule, the member who believes that has happened will call the one speaking out of order.

HILGERS: So in your opinion, does the Chair or the President have discretion to, as it were, determine that the member challenging the point of order is, himself or herself, out of order because the rules were not transgressed?



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

Floor Debate  
May 01, 2019

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CHAMBERS: I think we read it, "the presiding officer shall, or any member may, call such member to order." It doesn't say the presiding officer determines whether or not that person is in order. The process is started by a member who feels that the one speaking is out of order, then the rest of the rule is there to make it possible for that person to continue speaking. But in order to be systematic, another member will make a motion that that one speaking be allowed to continue. Then, without any debate, the Legislature takes a vote, and if the Legislature votes to let that member continue, then the member continues. If the Legislature votes not to let the member continue, then the member cannot continue except at his or her own peril. And then if I were to be asked, well, suppose that person were really not out of order, what happens then? The person, when he or she is recognized, based on the speaking order, when that person's turn comes up, that person is recognized and speaks--

FOLEY: One minute.

CHAMBERS: --and says whatever he or she thinks is appropriate.

FOLEY: One minute.

HILGERS: Thank you, Mr. President. Thank you-- thank you, Senator Chambers. I-- I'll-- in a second I'll yield you whatever seconds I've got left. My view, when I first read this, it seemed to me that what's implied in Section 8 is that the Chair, as-- as-- as the individual who is helping make sure that debate is running, has the authority to be able to determine whether or not something is out of order. That seems implied within our rules. Senator Chambers has pointed out a separate interpretation of Section 8 that-- where that's not implied, and I'm certainly listening to what he has to say. And I think it's important for us to put down the competing interpretations here on the record today. And I don't think I have any time left or I'd yield it to Senator Chambers. Thank you.

FOLEY: There is 15 seconds if you'd--

CHAMBERS: That's all right. I won't take it. Thank you.

FOLEY: Senator Bolz, you're recognized.

BOLZ: Thank you, Mr. President. I wanted to pick up on the thread that Senator Howard started, and maybe she and I can play tag team on this if there are additional things to cover. But I did want to refocus this on the substance of the bill, LB397, because I do think it is important to maintain the integrity of the Health Care Cash Fund and I think it's a-- it's a useful opportunity to

Floor Debate  
May 01, 2019

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talk about how important the sustainability of the Health Care Cash Fund is to a number of healthcare-related issues in this state. So previously on the mike, there was a question about what exactly is being funded out of the Health Care Cash Fund currently. And if anyone would like to see the most recent Health Care Cash Fund report, I do have it in front of me. The purposes range from enforcement of the Tobacco Settlement Agreement to gamblers assistance, to tobacco prevention and control, EMS technicians, Parkinson's disease, stem cell research, biomedical research, poison control, and a number of other things. In addition to those things that are appropriately funded through the Health Care Cash Fund that serve important healthcare purposes in our state, there are also a number of things that, from my point of view, should be General Funded. What I mean is that these are things that are functions of the state that shouldn't have to have a special fund to pay for them and they include developmental disability aid, children's health insurance aid, public health, and behavioral health rates. In other areas of our budget, those things are Generally Funded. And when we had tough fiscal times, before I was serving in the body, some of these pieces got moved into the Health Care Cash Fund. It should be our goal to move those out of the Health Care Cash Fund so that the Health Care Cash Fund can serve its purpose. Instead, in these tough fiscal times, we actually transferred money out of the Health Care Cash Fund, which, trust me, was an incredibly difficult choice, was done in the name of trying to maintain healthcare services in this state, but has done no favors to the sustainability of the Health Care Cash Fund. And when we get to budget debate next week, I hope that everyone is cognizant of the way in which we're putting our budget together, because we-- we don't have a lot of room to maneuver while maintaining our responsibilities to the things that we are funding as a state and we have a responsibility to do, including serving our most vulnerable citizens. I wouldn't say that we should-- I would say that we should be prudent in terms of putting money into our Cash Reserve because we are funding things in a manner that isn't fully reflected in the demands on our General Fund. And I would also say that the Nebraska Investment Council has warned us that we are somewhat oversubscribed in using these funds, and I-- I think that that's worth noting as well. If I have any time left, I'd be happy to yield it to Senator Howard if there are any remaining issues or items that I wasn't able to cover.

FOLEY: Thank you, Senator Bolz. Senator Howard, 2:00, if you care to use it.

HOWARD: Oh, that's great, and I-- I will use it. And I'm up next, so I was actually going to talk a little bit more about the Health Care Cash Fund as well. But before I do that, Senator Cavanaugh, would you yield to a question?

FOLEY: Senator Cavanaugh, would you yield, please?

CAVANAUGH: Yes.

Floor Debate  
May 01, 2019

---

HOWARD: Because we didn't get to discuss the merits of your amendment, can you tell me where the funds were going--

CAVANAUGH: Absolutely.

HOWARD: --or for the increase in the tobacco tax, where the funds were going?

CAVANAUGH: Right. So currently our tobacco tax is at 64 cents and that is already allocated. And so my bill does not do anything to change that previous allocation. What it does do, with the additional dollar of-- of revenue, is put 36 percent, or 36 cents, to the Property Tax Credit Cash Fund, which I believe is reflected in the Revenue package that came out of the Revenue Committee that they also have 36 cents going towards that. So this would not be in conflict with that. Then the additional 64 cents remaining, I have 35 percent going to Medicaid in the Health Care Cash Fund, 15 percent to the University of Nebraska Medical Center and Creighton Medical Center for cancer research, and that is split between 75 percent and 25 percent between the two of them, 5 percent for tobacco prevention and control program, 5 percent for addiction treatment services, and 4 percent to stabilize the Health Care Cash Fund.

HOWARD: Thank you. I don't have any further questions for you. I just wanted to really fully understand what we didn't get the opportunity to vote for and it-- and it looks like we-- we didn't vote on funneling specific funds through the Health Care Cash Fund. I-- I absolutely agree with Senator Bolz in that currently the Health Care Cash Fund is funding things that are General Fund liabilities, especially when I look at our DD aid. We're giving them \$5 million. But I am concerned that we essentially just as a--

FOLEY: Senator Howard, you're recognized for 5:00.

HOWARD: Thank you, Mr. President. We essentially decided not to vote on a property tax credit increase. Yeah, it seems very odd to me that this body, in particular, would just not vote for a property tax credit increase, because we're so focused on property tax relief. And so essentially, by not overruling the Chair, by not recognizing the amendment as germane, everyone who voted to sustain the Chair's ruling voted against property tax relief, which is a really odd thing for this body in particular. LB397 is a bill that has a considerable amount of merit. It's unfortunate that Senator Cavanaugh's amendment was not considered, especially when we're trying to relieve some of our taxpayers of their property tax burden. It's incredible to me, now fully understanding the contents of that amendment, that so many folks voted against it. I reiterate how dangerous this was for-- for what we did this morning, same subject matter, same section of law, to not overrule the Chair. But I also want to make sure that Senator Chambers has enough time to tell

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

Floor Debate  
May 01, 2019

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us a little bit more about his thoughts on the matter, and so I'm happy to yield the balance of my time to Senator Chambers.

FOLEY: Thank you, Senator Howard. Senator Chambers, you've been yielded 3:30.

CHAMBERS: Thank you, Mr. President. Thank you, Senator Howard. Senator Moser has asked several times, and it might be in-- on the mind of others, how can what we are into now be remedied? If you really were going to remedy it, we would go all the way back to where we were before we started behaving in a way that's out of order. That germaneness matter should not have been raised. We should not even be going through all that we're going through because that was where the problem started. That issue was allowed to be raised in a way that violates the rules. What the law says, a thief never obtains good title. No matter how long the thief holds it, he or she does not have title and it continues to belong to the person from whom it was taken. Whatever was done in violation of the rules cannot stand. We would have to go back as though none of this has happened. The amendment had not been taken up, the amendment where the germaneness issue was raised. We should go back to the point before anything was said about that amendment other than Senator Briese doing what he should have done, is standing and saying point of order. And this is the way it has happened all the-- oh, you said time? Did you say time?

FOLEY: No. No, I did not. You've got--

CHAMBERS: Oh.

FOLEY: --2:00, then you're next in the queue, so you've got about 6:30.

CHAMBERS: The person says point of order and you don't have to be recognized before you can do that, but then the Chair must recognize you before you speak, and the Chair will invariably say, state your point of order, Senator. And that's when the point of order is stated. Now, if somebody tries to use the point-of-order tactic to discuss the bill, the Chair has told people that's-- you're discussing the bill, that's not on the point of order. So there are ways to deal with it all. But you can inject a request for a point of order, even though you're not the next speaker. It's been done before. The problem is the way Senator Briese--

FOLEY: One minute.

CHAMBERS: --was allowed to proceed when he did not properly follow the rules. And I'm sure he heard me holler, you should just sit down. And that wasn't me directing him like I'm the father

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

Floor Debate  
May 01, 2019

---

and he's the child. I was talking in the language of the rule. So the body can decide to ignore what happened, say that the amend-- the amendment that was offered is not germane because the Chair ruled that way and enough people voted along with him. That's how you abrogate the rules also. The Chair makes a ruling, the Republicans vote to uphold the Chair, and the rules can be violated in that fashion because they've got the numbers. And that's another way to do away with any meaning of the rules. But this that we're dealing with is so clear, it requires no interpretation, and it was wrong for Senator Briese--

FOLEY: That's time, Senator Chambers.

CHAMBERS: --to be allowed to do it. Thank you, Mr. President.

FOLEY: You're now on your time, Senator Chambers.

CHAMBERS: Oh.

FOLEY: This is your third opportunity.

CHAMBERS: Thank you. I don't know if there was another time, there may have been, when the mike would be cut off while I was speaking and I would continue to speak. The things that I said after the mike was turned off were the things under the rules. I told Senator Briese he ought to sit down, he's out of order. And then the Chair said, I recognized him. And I said to the Chair, you're out of order. He was out of order. The order is determined by our rules, not the whim. But here's how he can rule, or she, whoever is in the Chair, tell those youngsters turn off the mike. Then they're put in a quandary. They have to do what they're told to do. But I'd never make them the villain. That's what happens when we're dealing with an issue where the Governor has a particular position. I'm going to try to find-- there was a time when Heineman was the Lieutenant Governor, I think, or whoever was Lieutenant Governor under Heineman, but whoever the Governor was, they had a discussion that on certain issues, they should be resolved by the Legislature and whoever that Lieutenant Governor was in-- was, would not automatically preside. That Lieutenant Governor was to discuss it with the Speaker and see if the Speaker, in view of the subject, ought to be presiding and not the Lieutenant Governor. But that was when there was not so much contention between the Governor's Office and the Legislature. That Governor had not purchased the number of senators that this Governor has purchased, and that's what it amounts to. I can triangulate and tell you three people who will always vote for the Governor: Senator Slama, Senator La Grone, and Senator Clements. And all they have to do is say, well, we shared views with the Governor and that's why he appointed us. But they don't know everything that the Governor was going to say, and there should be some places where they disagree. I make that point because we all understand the realities of politics. My only chance to

Floor Debate  
May 01, 2019

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get anything done is to invoke your rules and tell you this is what your rules say. That means if I follow these rules, I must be permitted to do what I'm doing pursuant to the rules. But since you have the numbers, the Chair can rule me out of order, you all will vote to uphold the Chair, which means to abrogate your own rules. And that's the way white people have always done. They just change the law. I told you about this scene in the movie about Judge Roy Bean. He became the one who ran a town. There was a company that wanted to do some developing. Judge Roy Bean was not going to let it be done. So this young lawyer said, well, Judge, the law says that he can do it. And the Judge Roy Bean said, go get that law. So the young guy went and got the law book and opened it up to Judge Roy Bean. Judge Roy Bean read it. He said, um-hum, it seems to say what you say. Then he tore that page out and said that's bad law. It's not the law anymore because Judge Roy Bean said it's not the law. What I say the rules mean, you all will say, well, we're going to show that it doesn't have to be that way, and then you get the Chair to rule a certain way, then you all agree to uphold the Chair, even though it's in violation of the rules, and there is no appeal that I have. So I have to start on other bills throughout the session--

FOLEY: One minute.

CHAMBERS: --taking time and punishing you because you thought you were punishing me. You thought you could outfox the fox, and you're not really a fox. You're a bunny rabbit. You all decided this morning that I am to take time on this bill whenever it comes up again, or now, and go the full three hours. And you can get 33 votes, if we go to cloture, and shut me up. And I swallow that. I don't like it. That's what the rules say though. Never have I, no matter how strongly I felt about something, spoken or tried to speak once cloture was invoked. I didn't stand up and shout it out and say, well, I think that's wrong. I've never done that. You all determine the rules. The book, when it comes to me, the rules are just good advice.

FOLEY: That's time, Senator.

CHAMBERS: Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Clements.

CLEMENTS: Thank you, Mr. President. I beg to differ with Senator Chambers. I don't always agree with Governor Ricketts. In fact, he's a very loyal Chicago Cubs fan and I'm a Kansas City Royals fan and the-- [LAUGH] I do not root for the Cubs when the Royals are playing them and so-- and I've let him know that. But regarding the motion here, I oppose the bracket motion and would like to get on to discussion of the bill. But Senator Wishart brought up a discussion about the NFL official that made an error. The referee made an error in the playoff game last year and-- or this year. And the-- the reason that that error was discovered was because of instant replay.

Floor Debate  
May 01, 2019

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Well, I would wish that we had instant replay. I've asked the Executive Board for access to videos that we have here. This is being recorded. And I'd like to be able to get to see a replay of our sessions. I think it would be real helpful, valuable for senators and staff and for the public to be able to see a replay of what we have gone through this morning, probably good government class lesson for everybody. And I know that the Executive Board has been working on it. And when she brought up instant replay, I thought, oh, yeah, I've been wanting to get that, and I would like to be able to review the video this morning, as well, and the events that occurred. But back to the bracket motion, I oppose the bracket motion and hope that we can move on with debate on the bill. Thank you, Mr. President.

FOLEY: Thank you, Senator Clements. Senator Wishart.

WISHART: Thank you, Mr. President. Again, I rise in opposition to bracketing this bill until the end of session. I think it's a-- it's a good bill and it has merit. But I do want to circle back around. Frankly, I'm-- I'm pretty shocked that more of our colleagues aren't concerned with what has happened this morning. We are a body that sets the rules and regulations for Nebraskans. And we put in place laws that tell them what they can or can't do. As somebody who, the more I serve, the more I believe in individual liberties and freedoms and a more limited government, I would say sometimes we put way too many rules in place for our fellow Nebraskans. But nevertheless, it is essential then, for the integrity of the Legislature, that we follow our own rules, especially when we're putting rules in place for other Nebraskans. We very clearly-- and I will push back on senators who get up and say that this is open to interpretation. It very clearly states in our rule books what should have happened. And in order for us to have integrity as a body, moving forward this session and moving forward, period, we need to reset on LB397. This bill needs to come off and we need to follow what it says clearly in Section 8 of our rule book on how we move forward with addressing the-- the-- the problems and the transgressions that happened this morning. So with that, I yield my time to Senator Chambers.

FOLEY: Senator Chambers, would you yield, please?

CHAMBERS: Thank you, Mr. President. Thank you, Senator Wishart. I have so much trouble not referring to her as Senator "Wise Heart," because that's what I called her when I first came down. So if ever I get so caught up in what we're doing that I say Senator "Wise Heart," you'll understand. When Senator Clements mentioned replay, that's how they discovered that wrongful call, no, even the defensive player who committed the foul, he knew what he had done, but he thought it was better to go ahead and make them take another play because if that pass had been completed, that would have been the game. And he said when the referee did not call it, he was shocked and he was just waiting and never saw the flag. Well, naturally, as the defensive player, he's not going to say, hey, ref, you got that wrong, I fouled him. Everybody saw it. It was not one

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

Floor Debate  
May 01, 2019

---

of those where the defensive player even tried to hide what he had done. On this, we don't need a replay. If this body were equally divided, four-- 24 over there, 24 over here, and I in the middle, then we wouldn't have this kind of discussion because the Chair is not automatically going to be upheld when what he decides is what the Governor or the Republican Party will want. You see Senator La Grone high-tailed it out of here and he hasn't come back. His name has been invoked. But that's what happens. They say things without thinking because all they are trying to do is shield the Governor, shield the Governor's stand-in, who is the Lieutenant Governor. And he's got to take this. He chose to be here in our house. This is my house. You know what I said? I acknowledge--

FOLEY: One minute.

CHAMBERS: --the power of the Speaker. I said the Speaker sets the agenda. But I acknowledge-- you all don't like this word hooked to my name. I acknowledge my power too. The Speaker will set the agenda. I shall set the pace. And here's why I can say that, because I have the stamina to do it, I have the determination to do it, nobody has got a hold on me or a string he-- he can pull and then I'll jump. He can play his fiddle however he wants to and I won't dance to his tune. We've got some in here, and I'm going to use the analogy again, they are such pussy-footers that you could stretch a piano keyboard from the Atlantic Ocean to the Pacific Ocean and they could dance all the way across that keyboard without striking a note. That's the kind of pussy-footing that is done around here, and it's going to continue to be done.

FOLEY: That's time, Senator.

CHAMBERS: But--

FOLEY: That's time, Senator.

CHAMBERS: You said time?

FOLEY: That's time.

CHAMBERS: Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Speaker Scheer.



Floor Debate  
May 01, 2019

---

SCHEER: Thank you, Mr. President. Colleagues, just a heads-up. And in anticipation that this might go the allotted time, the three hours would be up at 12:10, so my intention is to run this morning's session up until the 12:10 time period so that we will start on the next bill this afternoon. So just so if you have plans and need to make adjustments, be aware that we'll be here until 12:10 this morning. Thank you, Mr. President.

FOLEY: Thank you, Mr. Speaker. Senator Cavanaugh, you're recognized.

CAVANAUGH: Thank you, Mr. President. I'd like to get back to why I brought this tax increase to begin with and why it must be a dollar. In order to impact health outcomes, prices-- price increases must be significant, at least \$1 per pack of cigarettes with equalized increases for other tobacco products. My bill, my original bill in the Revenue Committee, did that. This amendment only does-- takes on cigarettes. If price increases are small, tobacco companies can adjust their prices through discounts to reduce the impact of the increase, resulting in less public health impact. Yesterday, Senator Quick was here speaking on his bill about vaping, and his lovely wife, Alice, who is a labor and delivery nurse, was here as well. I've spoken with Alice about the joys of being in labor and delivery and-- and welcoming newborns. And as some of-- some of those in the body, I know Senator Vargas with his newborn and Senator Hilgers and Senator Wayne with their newborns and myself, know how important those last few weeks are, why you-- why you try and hold on even though you don't want to anymore after 36 weeks while you try to keep that baby in there if you can, and it's because of lung development. Lung development is so important for newborns. It is-- it is the last thing that happens to them in utero and it is so crucial. It can cause a lifetime of problems. My daughter, Della, she has asthma. And so when we talked yesterday about the Clean Air Act, the Clean Indoor Air Act, and-- and whether or not you have a choice or civil liberties, or what have you, about being around toxins introduced to the air, I really-- I find it very concerning that we don't take more responsibility as a legislative body to protect children once they're out of in utero and once they're in this world, walking amongst us with their precious little lungs. Their precious little lungs need our protection. So tobacco tax increase helps kids. More than 150,000 new underage kids become daily smokers in the country each year, including 700 children in Nebraska. Ninety percent of adult smokers begin while in their teens or earlier. Two-thirds become regular daily smokers before they reach the age of 19. Research shows that with tobacco tax increase, 12,100 Nebraskan youths will avoid becoming a smoker and 13-- 12,300 adults will quit smoking. That's 2,400 people, 2,400 people. I guarantee everyone in this room knows 1 of those 2,400 people, 2,400 people that we will have in this world a little bit longer because they quit smoking. What I wouldn't give to have my Uncle Tom back. He gave up smoking in December of 2014 and he passed away in October of 2015. He was diagnosed with lung cancer in January, a month after he gave up smoking. It was too late for Tom and it's devastating. It's devastating to me, it's devastating to my family. He was the most wonderful, generous, kindhearted person I have ever known. And to have lost him to smoking when it didn't have to be that way is tragic, and it's very

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

Floor Debate  
May 01, 2019

---

tragic for his two little girls. Well, they're not so little anymore. Maeve is in college and Grace is going to be starting high school next year. But they were definitely little when they lost their daddy. So this-- this is about people's lives and not just about germaneness. I support Senator Briese's bill. I also support my amendment. And I plan to, in the next three hours, when we come back to this bill, bring a new amendment so that we can all have this discussion again about whether or not it's germane. And I hope that everyone will reconsider what happened here today and take that opportunity. I don't know if Senator Chambers believes in redemption, but I'm hoping we can have redemption in this body. Thank you.

FOLEY: Thank you, Senator Cavanaugh. Senator Howard, you're recognized, your third opportunity.

HOWARD: Thank you, Mr. President. I'm curious as to whether or not Senator Chambers believes in redemption, and so I'm going to yield the balance of my time to him for that.

FOLEY: Thank you, Senator Howard. Senator Chambers, you've been yielded 4:50. Senator-- Senator Chambers, before you speak, and I will not count this against your time, I've conferred with the pages. When the incident arose this morning, your microphone was not turned off, nor did I have a conversation with them regarding your microphone. I wanted to say that before you spoke. You've got four-- almost 5:00-- 5:00, Senator Chambers.

CHAMBERS: Mr. Speaker, with all-- Chair, I didn't understand a word you said.

FOLEY: Fine. This will-- again, this will not count against your time.

CHAMBERS: Oh, OK.

FOLEY: I-- I conferred with the pages regarding your microphone this morning. The microphone was not turned off.

CHAMBERS: So--

FOLEY: The pages did not turn it off. I did not have a conversation with them about that microphone.

CHAMBERS: Oh, OK. I-- I see.

Floor Debate  
May 01, 2019

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FOLEY: Very good. Five minutes, Senator Chambers.

CHAMBERS: Thank you. Members of the Legislature, there's a statement Caesar supposedly made. When youngsters study Latin, they learn that statement. It's not the one, "I came, I saw, I conquered." The statement is: The die is cast, Caesar has crossed the Rubicon. And some people question whether that word "die" is referring to a coloring agent, meaning that the cloth or whatever is to be affected has been dyed and a fixing agent has been added so that it will not run. No, Caesar's statement referred to a single one of those cubes, usually you speak of dice, meaning two. The singular is di, d-i, and the Latin is the d-i. Caesar has crossed the Rubicon. In other words, once that di has been cast and it stops rolling, you cannot throw it again, you cannot change the number that came up, that is it. I said what I would try to do with this bill. If people like it-- I'm taking it with the help of others, which I didn't really need, three hours the first time. It will come back for three more hours and I will be in fine fettle and I can take it three hours. But at that point, Senator Briese can move to invoke closure. If you like the bill, you'll give him 33 votes. But before you can vote on that bill, you'll have to vote on every pending motion or pending amendment. So if you want your amendment to be covered, then it had better be up there so that when that motion is made, everything that precedes that motion being acted on must be disposed of, any motions, any amendments. There might be an amendment pending and I would have put a bracket motion. They would dispose of my bracket motion first, then they'd dispose of the amendment. Then they would take a vote on what you're going to do with the bill. Probably, the bill will advance. Then when we get to Select File-- do you all remember hearing a song by Fats Domino, yes, it's me, and I'm in love again? I'm in love with this bill now. I feel an affinity with this bill and for this bill. So every time it comes up, I want to spend time with this bill, and I say to this bill let's just be glad for the time we've spent together, there is no need to count the bridges that we've burn. Then I could take a piece of paper with the bill and say, just lay your head--

FOLEY: One minute.

CHAMBERS: --on my shoulder and go through all of that. You know there are many ways that I can find to take three hours. But every three hours that I take on this bill will be three hours taken away from something else. We have heavy issues to deal with and not a lot of time. You've got a long way to go and a short time to get there now. And I don't like the bill that came out of the Revenue Committee, so that bill is for sure going to go the three hours. And I don't know if it will have 33 votes in the form that it will be when you have to invoke cloture. If cloture is invoked at the right stage of debate, you're not going to be able to do anything else with the bill. So if I can delay motions being made or amendments from being adopted--

FOLEY: That's time, Senator.

Floor Debate  
May 01, 2019

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CHAMBERS: Thank you, Mr. President.

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

HUNT: Thank you, Mr. Lieutenant Governor. I wanted to stand to put my support behind what Senator Wishart and what Senator Howard and what several others have said that what happened today, this morning, was a grave transgression. And as a freshman senator, it really hurt my trust in the process and my trust in my colleagues and my trust in the Chair. Lieutenant Governor Foley, you could have read Senator Briese's mind and said, well, I know what he meant when he stood up. It's not deep. All that needed to happen was for you to say that's out of order and let him try it again, and then we can go through it the right way. And now we're in violation of our own rules. I think-- I agree with Senator Morfeld and others who have said that we need to table this for now and regroup and decide what we're going to do about that transgression. And as a new senator, with my trust damaged by this process, I can only imagine how this is affecting other Nebraskans who are watching us. If we don't know what's going on in here and we don't follow our own rules and when-- when the vote and the ruling comes down on what we're going to do about that, partisan things are going on, the vote goes in a completely partisan way? And then I walked around the Chamber and many people said to me, oh, I didn't really know what we were voting on, so I just followed what my friends were doing up here. That is a tragedy. That's a horrible thing. That's not what we're supposed to be here to do and that's not what I'm here to do. That's something that a lot of you say. You'll get on the mike and say, I value our institution, I think it's important that we protect what we do here in our nonpartisan Unicameral. I know that all of us go and have opportunities to talk to people from other Legislatures and they're so jealous of our system here because what we have is so special and we need to protect it, but we're just giving lip service to it. We're not protecting it in practice. So-- so please notice that and question when you're doing that, because I'm going to start calling people out by name who-- who are consistently voting in a partisan way, because that's not what we're supposed to be here doing, and it's really hurting my faith in the body. And I would yield the rest of my time to Senator Chambers.

FOLEY: Thank you, Senator Hunt. Senator Chambers, 2:30.

CHAMBERS: Thank you. Mr. President, were you indicating that I would have at least one more time on my own or have I spoken--

FOLEY: You have-- you have your closing remaining.

Floor Debate  
May 01, 2019

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CHAMBERS: OK. Members of the Legislature, I'm like Ol' Man River, and at least you know that I'm old, so maybe that's enough for me to say I'm like Ol' Man River. But Ol' Man River just keeps rolling along. Everybody else can get tired. They can go home. They can go on a vacation, stay for months, and then they come back and stand at that same bank-- spot on the bank and although the drops of water that comprise that river are different, collectively that's still Ol' Man River, and Ol' Man River is still rolling along. If I say I'm going to take a bill to the end, that's what I'm going to do. We have a finite amount of time in a session. That's why time is always on my side. Our sessions are not open-ended. And by the time we get through, either the 60 days or the 90 days, my colleagues are so worn and beaten down, they're not about to vote to extend the session, which they can do. And if they were smart, they'd threaten me with that, and they'd play right into my hands because I'd say, now I'm going to make you deliver on your threat. The promise being made, must be kept.

FOLEY: One minute.

CHAMBERS: And if I make you a promise, I've got to keep it, not because I made you a promise, but because I have to keep my word. And when things got off the track this morning, I did make a statement that was presumptuous. I said I'm going to kill this bill, but then I amended it and said if I can't kill the bill, I will kill time. And that's what I will do. So however many may leave this floor, it's of no moment to me. We have a much wider audience, as one of my colleagues found out, whom I will not identify. But when there is a reaction in the thousands to something that was said on the floor of the Legislature, that lets you know that people are paying attention to what we do and they don't trust politicians. And by the way, even though they vote "Repelican" because they're trained--

FOLEY: That's time, Senator Chambers.

CHAMBERS: Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Wishart. Senator Wishart, it's your third opportunity.

WISHART: Thank-- thank you, Mr. President. Colleagues, again, I-- I want to be very clear. And I have talked with Senator Briese's office on this because I know they've worked really hard with the Attorney General's Office on LB397. So I want to be clear, this is-- the underlying bill is a good bill. I will help Senator Briese get to 33 so that we can move forward with this bill. But out of the-- what I feel is really the-- how crucial it is for us to follow the rules and be a legislative body that moves forward with integrity, I cannot let what happened this morning go unchallenged. Again, many of us are new to this position, and I'm hoping all of us will go home

Floor Debate  
May 01, 2019

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tonight and carefully read through these rules and spend some time studying them. And so I understand that mistakes will be made and they-- I will make them. I can guarantee I'll probably make them this session. But the best way for us to learn from our mistakes is that we-- there has to be some level of restitution. And what's happened today on LB397, there has been no restitution for the transgressions that happened this morning. So I think what's going to need to happen is we go until the three-hour mark and then a group of us senators, as it says in the rules, come together and we determine without debate, as it clearly states we should have done in our rules, how we move forward on LB397, and then we make that determination and we move forward. It could happen-- we wouldn't even need to get to 33 votes if we would just table LB397 right now and move on to a different bill and have-- and clearly go through the process that we have put in place for ourselves when a transgression occurs. And I-- I do want to be really clear. I see no room for interpretation, when I read through what-- the-- the rules around what happened this morning. It clearly says that if any member, in speaking or otherwise, transgresses, so right there. Well, was there a transgression? Well, when you go to Section 11, on the next page, and it says "Personal Privilege" and it lists the reasons why a senator can make a motion for personal privilege, it clearly says that they are not-- they shall have precedence over all other questions except motions to adjourn. "Personal privilege shall not be used to permit any discussion or debate pertaining to any measure pending before the Legislature. All questions of privilege shall be channeled through the presiding officer." So clearly there was a transgression, and I don't care if it was a mistake. I don't care. The only way we learn from our mistakes is that there is some level of restitution for that mistake being made and then we move forward, and that has not happened this morning on LB397. And again, I am shocked that the rest of this body is more-- is not more concerned about what happened this morning. I mean these are our rules. This is the foundation of us being able to create laws. And again, I will-- I will-- I will touch again on what I had said earlier. We are the body that puts rules in place for our fellow Nebraskans.

FOLEY: One minute.

WISHART: We better follow our own rules. And this morning we didn't. I also want to point out in the minute I have left how serious this section is. It's so serious that it mentions the ability of the Legislature to censure their colleague. Think about how serious that is that in this same section that I've been reading from, it says that "he or he shall be liable to censure" for such punishment. So those that preceded us in the Legislature put in place a very serious repercussion for if somebody transgresses. Now obviously, I do not think Senator Briese, who's possibly one of the nicest senators in this body, should be censured. I don't think that. But I-- I want to really call this body to understand how serious it is when we make mistakes. And the fact is, we can give each other the grace to do that--

FOLEY: That's time, Senator.

Floor Debate  
May 01, 2019

---

WISHART: --but we have to follow the rules.

FOLEY: Thank you, Senator Wishart. Senator Cavanaugh, you're recognized, your third opportunity.

CAVANAUGH: Thank you, Mr. President. I first want to echo Senator Wishart's remarks that Senator Briese is extremely nice and has been very patient with me in this process. I'm one of eight children and I'm in the middle, and today I feel like the ultimate middle child causing all this raucous, so I apologize, but I'm sure my siblings are laughing. So I told you about my Uncle Tom, and now I want to tell you a good story about my cousin Ben. And I spoke about both Ben and Tom in the Revenue Committee when I introduced my tax bill. So Ben, he has this app on his phone because he's a young and-- young guy and that's what you do now. And this app is an app that he put on his phone when he quit smoking, and he quit smoking 1,616 days ago. He has avoided 64,668 cigarettes. He has saved \$21,826. And this app calculates the health benefits and it indicates that he has won back 269 days to his life. So for anyone who knows my cousin Ben, or Bennett, he is-- he's kind of like the young Uncle Tom. He's sweet, he's loyal, he's smart, he's hardworking. He recently, in the last year, became a firefighter and he goes and works on forest fires across the country, but his home base is Omaha. He's a dedicated young man who will do great things in this world and has done great things and contributes so much to-- to society. And I'm just so grateful that he made that choice 1,616 days ago to quit smoking. I'm so grateful because right now we're almost up to one year more guaranteed of Ben, and I can't-- it just-- I can't stop smiling when I think of Ben. He's-- he's the baby of his family, one of five, the Amdors. Some of you might know-- I think a lot of you actually might know my cousin Diane Amdor who worked in this body for a while for Judiciary Committee. And she also will be welcoming another family member anytime now. So there's a lot of reasons for me to care about having people quit smoking. And I'm sure that there's a lot of reasons for everyone in this body to care about people quitting smoking. It's very, very important to remember that we're talking about lives, we're talking about our loved ones, and we're talking about our constituents' loved ones. And in addition to that, in addition to the health benefit, which for me is reason enough to increase this tax, in addition to that, we are also talking about revenue for our state, much-needed revenue. And I don't think that we should lose sight of these two very important things when it comes to legislating this. I have brought my amendment back, I have cleaned it up, and we will see if we can find germaneness in the future. And the last thing I will say is that today is May Day, and so I pilfered my children's Easter candy, because I don't want them to have it because I'm a mean mom, and it's on my desk. So happy May Day. Please stop by and enjoy a piece of Easter candy. Thank you.

FOLEY: Thank you, Senator Cavanaugh. Senator Briese.

Floor Debate  
May 01, 2019

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BRIESE: Thank you, Mr. President. And good morning again, colleagues. You know, if there's a lesson to be learned from this, I think maybe it's-- there's something to be said for being precise in what we say on this floor in this body. I would note that Senator Cavanaugh and I-- Cavanaugh and I spoke a few days ago and she gave me advanced notice of the amendment coming. I certainly appreciate that from her. That was appreciated. And I indicated to her at that time that I'd probably oppose it or that I would oppose it, and I think I indicated that I would probably argue germaneness on the thing or at least consider germaneness and-- and I guess that we did. I did want to make a couple other observations about the earlier amendment and what I presume will be in the upcoming amendment. And there-- there was a bill in the Revenue Committee to increase the tobacco tax. I think Senator Cavanaugh probably referred to that earlier. And it didn't make it out of committee. And so when we try to do it with an amendment, you know, we are in a way circumventing the committee process. And so if we are going to consider a tobacco tax increase in the upcoming amendment, we have to ask ourselves how important the committee process is to us. And this bill is critical to preservation of our MSA dollars. And I would submit that the adoption of the wrong amendment could jeopardize this bill and that's certainly not what we want to have happen here and-- I didn't support the previous amendment and I'm-- I'm guessing that I won't be supporting the next amendment, depending on what's in it. But in particular, I didn't oppose-- or I didn't support the increase in the tobacco tax. You know, in the past I've advocated for an increase in excise tax but only to the extent those dollars are used for property tax relief. And raising those taxes in and of themselves, if it's not directed towards tax relief, I'm going to be opposing that. This bill is important. We need to get it back on the floor and we need to keep that in mind that it is important to preservation of our MSA dollars. We need to keep it going. And with that, instead of filibuster my own bill, thank you, Mr. President.

FOLEY: Thank you, Senator Briese. Senator Vargas.

VARGAS: Thank you very much, President. I want to thank Senator Briese because what you just stated, the-- at least put presenting arguments for maybe why you think that it was not germane, or particularly the policy where some aspects of this you agree and some don't is really what we should be debating. We probably should have started that off in the first place. Obviously, we can't rewind time and we-- we can't go back and address any of those changes. But I echo everything that has been said and I-- I got on the mike previously to-- to share my-- I don't get on the mike that often but when I do, I tend to get on when something concerns me for the-- for the sanctity of this body and mostly because I-- I think about the people that were sitting in the seats before us and when-- what they have and have not upheld. And when there was really substantial debates on topics, rather than what I think we did today, is we're debating a rule and whether or not we did something that was appropriate or in line with this body and the Legislature and the nonpartisan nature. And so I-- I just wanted that to be known because it-- it is of concern to me that, you know, we inherently have trust and rules. And the rules help uphold



Floor Debate  
May 01, 2019

---

the culture that we have and if we can't-- if we can't stand by those rules and our culture begins to erode, unfortunately, human nature gets to this hive mentality and we-- we-- we tend to go toward what feels more comfortable. I hope that's not the place that we're heading. It felt like that and-- and I want to try to avoid that as much as possible. But part-- step one is recognizing that we have a problem, at least in this instance. And if we can't recognize it, we have a much bigger problem. I wanted to say that, and-- and I hope that we get past this in future instances where have-- where hopefully we don't have this again. But it was-- it is very concerning, especially given what-- what normally happens during this time when people are trying to add amendments and try to make things fit and find homes for places, that this isn't used in-- in an unnatural way that's in dissonance with how we have normally operated. And I will yield the remainder of my time to Senator Chambers, if he'll have it.

FOLEY: Thank you, Senator Vargas. Senator Chambers, 2:30.

CHAMBERS: Thank you, Mr. President. Thank you, Senator Vargas. The discussion has now gotten to a point where we are serious. And I'm not going to say I wish more people were here because this is par for the course. No matter what I'm talking about, the Chamber empties. But I get so much mail and I do get calls, not all of them foul. Cars honk at me, not to shout racial epithets or slurs. Even some people you all would probably be afraid of because they are not dressed too well, they look kind of rough hewn, but they will come up to me and they say, Senator Chambers, keep giving them "h." That's what I hear more than anything else. They like what I'm doing. They see what we're not doing as a Legislature that we could do. If this Legislature were doing what we should do, you would scarcely hear my voice at all. I would wait until there was a particular issue that I thought needed clarification and I could offer it. But now I'm in a position where I have to just take time. That's all I'm doing, taking time. But because everything that we say is recorded, then transcribed, if, perchance, somebody would read it, I would want them to see that there was something in the way of a point that I was trying to make.

FOLEY: One minute.

CHAMBERS: When I was a very small lad, maybe three-foot-three, and certain questions occurred to me-- but I'm not going to go through all that. I'm going to say that I would listen to things that people would say very carefully, and then it puzzled me why those same people didn't do like they ought to do based on what they said, and it developed in me a distrust toward grown people. If they said something good, I would hope that they are going to really carry through on it, but in my mind was the idea, but, no, they're not, they're just saying things that don't mean anything. I cannot say that as a child I formulated my thoughts in the way I can express them now. But I had the sensing that I didn't want to be what they were. I didn't want to make children

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

Floor Debate  
May 01, 2019

---

think that I meant something, then I didn't even mean it. I just felt at that time it was better for me not to even say it.

FOLEY: Time, Senator.

CHAMBERS: Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Quick.

QUICK: Thank you, Mr. President. I think all the conversation this morning has been really interesting for me to listen to. I think the rules are-- are important for us to follow. And I think we need to protect the integrity of-- of the Legislature so that we make sure that what we're doing here, people out in out-state Nebraska, our constituents, can respect what we're doing for them. So with that, I'll yield the rest of my time to Senator Chambers, if he would wish to have it.

FOLEY: Thank you, Senator Quick. Senator Chambers, 4:30.

CHAMBERS: Thank you, Mr. President. Thank you, Senator Quick. And for all my colleagues here, there, and all the ships at sea, if they're watching, this is training for me. When we get into the meat of the session, and this Chamber is going to be full then, they're going to be here because you're going to be talking about property tax relief. Then I'm going to jump in and do the very thing that I'm doing now, and I bet they won't dare run out because they don't know when something might happen that they need to be here to listen to or try to avoid happening. But whether they're here or not, if I say that I'm going to take time, I'm going to take it. Whether anybody is on this floor or not, that clock keeps running. Every minute I take off the clock today, the fewer minutes remain tomorrow and tomorrow and tomorrow. And I'll find a way to take those minutes and even some hours. There was one session where, to show my resolve, I brought a very decorative hourglass, and it might have stood at least 12 inches, maybe 14 inches tall. It had carvings in the metal framework. It had little jewels here and there. It was as much a delight to the eye just because of the beauty as it was as far as utility because the-- when you-- it-- the sand was in the top compartment and you let it run out, it would run out in the amount of time it was supposed to. So I told them, my colleagues, my then-colleagues-- many of them have gone on. And this is what I understand my Catholic friends do when they say and somebody has gone on. I even saw Joe Biden do that when he was discussing having kissed a woman on the back of her head, and he was making kind of a joke and that's what he did. So I think it's just one of those gestures that people go through. But I told them, you all determine what you are going to do by that clock. I say, see this hourglass? This is what I determine the pace at which I intend to move. And even if you would have an emergency meeting of the Rules Committee to adopt rules

Floor Debate  
May 01, 2019

---

to cut me off, that would play into my hands because it would cut you all off too, and it would hurt you more than it hurts me because I can think and you all can't. You know why you cannot think? You've never had to. You've always had the numbers, just like when you vote to uphold the Chair when you know the Chair is wrong. But it's going in the direction that your ideology carries you, so everything else goes out the window. That's why nobody can tell precisely what manner of man or woman you really are. You change as the circumstances change. You are a utilitarian. You don't have firm principles. You have things that you'll firmly say, for instance, I'm a strong conservative man, or, if you will, I'm a strong conservative woman. And that's supposed to tell me something? I've heard that slogan so many times it has no meaning.

FOLEY: One minute.

CHAMBERS: What does the word "strong" mean in that context? What does "conservative" mean? To me, conservative, it equates to racist. A conservative to me is a self-acknowledged racist. Conservatism is racism. And if you examine what they do and claim to stand for, white nationalism, hatred not just of black people but of Jews, anybody who constitutes the "other." Now I saw where your President commiserated with the Jews when the synagogue shooting occurred because he's trying to get money from the Jews. He made that clear that APAC is who he's trying to appeal to. That's why he said Jews ought to annex land of the Palestinians. But when that guy drove a car down the sidewalk and killed and hurt some people because he said he was attacking Muslims, Trump didn't say anything about--

FOLEY: That's time, Senator.

CHAMBERS: --we shouldn't have religious bigotry.

FOLEY: That's time, Senator.

CHAMBERS: Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Speaker Scheer, you're recognized.

SCHEER: Thank you, Mr. President. We are close. We will proceed now to the rest of the agenda. We will-- recess will be in order after I finish speaking. Just wanted to clarify for the rest of the colleagues on the floor, per the agenda, at 1:30 we will go down to LB657A and then take up LB209 and then after LB209, we will revert back up to the agenda where we are at now. Just didn't want any confusion in relationship to where we are going this afternoon, but that's how the agenda is set up. I just wanted to clarify that. So that-- with that, thank you, Mr. President.

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

Floor Debate  
May 01, 2019

---

FOLEY: Thank you, Mr. Speaker. Items for record, please.

ASSISTANT CLERK: Mr. President, new resolutions, LR101 by Speaker Scheer and LR102 by Senator Howard. Those will be laid over. LR103 by Senator Lowe calls for an interim study. That will be referred to the Executive Board. Amendments to be printed: Senator Albrecht to LB595; Senator Friesen to LB184; Senator Howard to LB460; Senator Matt Hansen to LB464. Senator Vargas to LB478. Your committee on Enrollment and Review reports LB583 to Select File with amendments attached. An amendment to LB397 from Senator Cavanaugh to be printed. And finally, an announcement that the Appropriations Committee will hold an Executive Session today at 12:15 in Room 1003.

Priority motion, Senator Arch would move to recess until 1:30 p.m.

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

RECESS

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.

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

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

ASSISTANT CLERK: Mr. President, your Committee on Transportation reports LB378 to General File and LB462 to General File with committee amendments attached. That's all I have.

FOLEY: Thank you, Mr. Clerk. (Visitors introduced.) We will now proceed to the afternoon agenda; 1:30 agenda item, LB657A. Mr. Clerk.

ASSISTANT CLERK: Mr. President, LB657A, introduced by Senator Wayne. (Read title.)

FOLEY: Senator Wayne, you are recognized to open LB657A.

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

Floor Debate  
May 01, 2019

---

WAYNE: Thank you, Mr. President. Members, this is just the A bill to our hemp bill. I would ask for a green vote to allow this bill to catch up with the other bill, LB657 so we can move this forward and start a new industry that is waiting to grow and be very vital, I think, to Nebraska as we move forward. Thank you, Mr. President.

FOLEY: Thank you, Senator Wayne. Debate is now open to LB657A. Senator Lowe.

LOWE: Thank you, Mr. President. Senator Wayne, would you answer a few questions for me?

FOLEY: Senator Wayne, would you yield, please?

WAYNE: Yes.

LOWE: There are a few things I would like to get into the record this afternoon. So, I was wondering if you could answer these questions.

WAYNE: I will do my best, and if I don't know the answer, I will push my light and find the answer for you.

LOWE: All right. And I know you will. Can you explain what exactly the money will be spent on for this appropriations?

WAYNE: It will be spent on new staff with the Department of Agriculture. It will also be split with-- if you turn to the-- if look at the fiscal note, it will also be spent on helping the Attorney General, but at 300-- it tells you it will be half of FTE for an attorney and two inspection specialists and one program specialist to administer the program.

LOWE: So it doesn't include inspectors?

WAYNE: Yes, it includes two inspection specialists.

LOWE: It doesn't have a large fiscal impact. But we've discussed earlier that we would expect the state to have inspections, and do you think two inspectors can go across the state and continually inspect these fields?

WAYNE: Yes, well, there's a couple reasons for that. One, they are GPS, so they will know exactly where the fields are and what they are doing. Two, they also have current inspectors, so

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

Floor Debate  
May 01, 2019

---

these are just two additional inspectors to their current inspectors, so it appears that they will be able to, underneath their budget, get this done with two additional inspectors.

LOWE: Do you know how many inspectors they currently have?

WAYNE: I do not know off the top of my head and I can get that information for you.

LOWE: Thank you, I appreciate that. And if they need more inspectors, where will that funding come from?

WAYNE: I'm sorry.

LOWE: If they need more inspectors, where will that funding come from if this industry grows?

WAYNE: Well, then I think we will be back here next year with an appropriation bill if it grows. But also, if it grows that fast, there's also fee requirements, that fee will grow. So I don't necessarily would believe that the cost to the state would have to grow exponentially.

LOWE: Thanks.

WAYNE: Thank you.

LOWE: As you know, I'm not in favor of the original bill, LB657, and I think that these fees will grow that are charged to the state. And I know there's a fee to grow the plant, but I don't think it will keep up with the cost. Senator Wayne, would you yield to another couple of questions?

FOLEY: Senator Wayne, would you further yield?

WAYNE: Yes. And I just found out, noxious weed has 6 to 7 inspectors currently.

LOWE: OK, thank you very much. Do you believe if this industry grows and becomes a major crop in our state, will we have to grow the administrative staff and the administrative offices to keep up with that?

WAYNE: Well, it would depend on how fast it grows. And again, I want to turn to the fiscal note: you'll see cultivators, they have a registration fee, they have a license fee; the processors also

Floor Debate  
May 01, 2019

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have a fee, and there's a site modification fee, so that helps pay. So, yes, they could potentially have to grow, but that means if they have to grow, our industry is growing, and that's good for the state.

LOWE: So this may grow the size of our government.

WAYNE: Potentially. It could also maybe reduce inspectors from other places because farmers decide this is such a good crop we're going to just grow this and not have some other plants or agriculture crops.

FOLEY: One minute.

LOWE: Thank you, Mr. President. And as far as on the bill itself, we talked about testing of the plants. Can you walk us through who will pay for the tests and who would run the tests?

WAYNE: Who would pay for the test? So the test-- any testing is paid for by the grower or the processor. Who would do it would be a list that was produced by the department to ensure that they are compliant with the standards that meet the federal standards that are laid out in the bill.

LOWE: All right. Thank you, Senator Wayne.

FOLEY: Thank you, Senators Lowe and Wayne. Is there further discussion on LB657A? Senator Lowe.

LOWE: Thank you, Mr. President. I would like to continue for just a short while longer here. Could you repeat on who would do the tests, and you stated that the grower would have to pay for the test. So the tests and where would the-- how would the test be done?

WAYNE: Yes, I will yield to a question. The tests are done using-- there's two different kinds of testing. One is gas, one is chemical. I won't use the actual names because they get hard to pronounce and I'm not a scientist or a chemist, but they do tests that are not currently being done, like you would say, for police. So police tests the total THC. This gets down to the nano where they test the total Delta THC, the actual chemical that could be mind altering. So they have to perform a special test, we actually have two or three labs right now in Nebraska who can perform this test but are not allowed to under state law, so they could actually grow their business. But the Department of Agriculture will put them through a series of questions and background checks to make sure they meet the federal requirements underneath our bill.

Floor Debate  
May 01, 2019

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LOWE: Do you know how long that will take for them to get up to speed?

WAYNE: How long for who?

LOWE: For the testing companies to--

WAYNE: The testing companies outside the state of Nebraska already have this and are doing this for hemp grown across the country. The testing facilities in Nebraska have the ability, they have plants here, they have plants out of state, but they have plants here that can't currently test. Although they run the same test, they can't use it for this product, because it's illegal right now underneath our statutes. So, it's not a how long; they can wrap up tomorrow, if this was legal.

LOWE: Do you expect the state to incur any costs in these tests? Do you expect the state-- I'm sorry, Senator Halloran is snoring over here, it's hard to hear. Do you expect the state to incur any costs in training for these tests?

WAYNE: No, and that's-- and so how the bill is written it is the grower will have to pay for the tests and any costs associated with those tests for the first test. If there's follow-up tests that the department wants to do, they would be paid for by the department because they are doing some additional testing, whether it's for research or for maybe an investigation. That's all in the fiscal note too.

LOWE: OK. And let's say during the testing, it's found that these plants and this field are not what they need to be, they are over the level of THC. Can you walk us through who would take charge of destroying the plants and how those plants are to be destroyed?

WAYNE: Yes. So, there's numerous ways to destroy it, and instead of me putting that in the statute, because we don't want them to one day be FDA approved or USDA approved for, maybe, animal feed, we are leaving that to the rules and regs of our department. So what that means is, right now they could burn it, they can turn it over and destroy the crop that way, or the Department of Ag may find a different way that they believe they can destroy it. But we would treat it as a noxious weed, and it would be most likely burned, but I'm leaving that to the department because as time changes their rules and regs should have to change without coming back to the body.

LOWE: When this field is found to be not in compliance, and maybe the THC level is well over the legal limit, who will stand guard over that property until it is destroyed?



Floor Debate  
May 01, 2019

---

FOLEY: One minute.

WAYNE: Well, it depends. If it's an intentional violation or unintentional violation. If it's an unintentional violation, the Department of Ag would immediately tell them to destroy that and probably give them a one or two days. However, if there is an appeal process, because maybe they tested hot or higher and there was a mis-- the farmer believed that there was something wrong with the test, they can do an appeal process under the ADA and the farmer would be solely responsible for all those crops. And in this day and age, I'm pretty sure pictures and everything else would be taken to make sure those crops aren't hauled off. If it's an intentional violation, that means they are intentionally growing something that we would say was high-value THC products, then they would be referred over to law enforcement for prosecution, because clearly that's not hemp, and that is at the discretion of--

FOLEY: That's time, Senator. Thank you, Senator Lowe and Senator Wayne. (Visitors introduced.) Continuing discussion. Senator Erdman.

ERDMAN: Thank you, Lieutenant Governor; and good afternoon. Senator Lowe, listening to your conversation with Senator Wayne, I heard Senator Wayne about-- his discussion about how it would be destroyed. It may take a long time for that field to dry out enough to burn it. There's a situation there that takes awhile for that stuff to dry out. But I read in the fiscal note, it talked about-- they're estimating how many cultivators and how many processors there would be in '19 and in '20 and '21. And I would be interested in getting Senator Wayne's opinion on some of this if he would yield to a question.

FOLEY: Senator Wayne, would you yield, please?

WAYNE: Of course, I always love to yield to Senator Erdman.

ERDMAN: OK. Senator Wayne, I appreciate that. So, Senator Wayne in the appropriations or the fiscal note, it talks about 50 cultivators and 15 processors they're estimating to be in operation in '19. Explain to me what a processor is.

WAYNE: So a processor would be-- after you, as a farmer, would grow this great product, or agriculture commodity, you would transport it to a processor. So it could be CBD oil, it could be hempcrete, it could be-- anybody who is taking that product and turning it into a sellable or useable item for retail or wholesale. The definition is on the first two pages, too, (INAUDIBLE).

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

Floor Debate  
May 01, 2019

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ERDMAN: I understand. So, if you only have 50 growers, and I'm assuming that's what the word cultivators mean, if you only have 50 cultivators, why do you need 15 processing plants?

WAYNE: Well, because if there's only 15 growers and the market demand says that we need more hemp, like we currently are, we have one processor without any growers in Plattsmouth right now. And he is buying all of his hemp from Canada, Kentucky and sometimes Colorado, but mainly Canada and Kentucky. So we have one right now without any growers, so I don't think this is far off.

ERDMAN: I think it's pretty peculiar that you would have 15 processors and only 50 growers.

WAYNE: Well, because a grower can-- OK, an acre can only-- let's say they produce a hundred pounds. That hundred pounds can run through for CBD oil, you could run, I think we are looking at a facility in Omaha that would move over 25,000 pounds a couple hours.

ERDMAN: I thought the last time we were on the mike you said 25,000 pounds a day.

WAYNE: That's the current ones doing that. I'm telling you that somebody else is looking to come to Nebraska and run more. Now, there's also a process, right? It's supply and demand. So you order a whole bunch more bales and have them sit there in case you can't keep getting bales in.

ERDMAN: So the processing plant at Plattsmouth, does it do-- does it remove the fiber or is it for the seed, or what is it for?

WAYNE: They use-- their plant is for fiber, they make a clothing line.

ERDMAN: OK. So, if they did 25,000 pounds a day, and an acre of hemp produces 2.5 pounds; on an annual basis, if they ran every day, it would be about 3,600 acres, which is insignificant. And with your-- with the calculation here of 50 growers statewide, and then in 2021, 100 growers statewide, what kind of revenue do you think it's going to generate for the state if those are the only amount of people we have growing it?

WAYNE: So, if I could predict revenue, I wouldn't be here right now, because I would be a multimillionaire in an industry that is brand-new. But what I can tell you is, the average jobs in these buildings are \$60,000.

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

Floor Debate  
May 01, 2019

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FOLEY: One minute.

WAYNE: They usually have 25 to 75 people working three shifts. So those are really good paying jobs, because the industry is not saturated enough, and there's such high demand that these facilities are being built all over the country.

ERDMAN: OK. So what is the revenue in it for the grower?

WAYNE: The grower, there's been different revenue, I will push my button, although I don't want to take up more time to give you the exact revenue, but I think last time on the mike you read the revenue and you didn't disagree-- you disagreed with it, so we can have that disagreement again, but you already had that on the first round, but we can do it again. I will find out.

ERDMAN: Thank you.

FOLEY: Thank you, Senators Erdman and Wayne. Senator Lowe. This is your third opportunity, Senator.

LOWE: Thank you, Mr. President. And, Senator Wayne, you had stated that the-- if the field was found to be in noncompliance that it could probably be taken care of very quickly. I would like to remind you that this is Nebraska, and our wind howls at times, and the burning or something like that of this probably wouldn't be done very quickly, because our winds can last for a week out here and then change direction and blow the other way. And if tilling in might be one of the answers, somebody coming by, and it's been stated that hemp gives you headaches and things like that, but our youth have smoked other things, but it could be an attractant once they find out that the THC level is in-- that is higher than what it should be, and I'm not blaming the farmer for doing this, because it could be a mix in seed and that's done all the time. Do you have an answer for making sure that if this crop is not in compliance?

FOLEY: Senator Wayne, would you yield, please?

WAYNE: Yes. So, if the crop is noncompliant, you're talking about .4 to .5. If you're talking about what somebody wants to smoke, you're talking 20 percent to 30 percent, you're talking .7 to .8 THC. So the idea that people are going to run around, I mean, they would be doing that now. We would be catching people in creeks, we would be catching people in river bays trying to find .04-- or .4 Delta THC hemp. I just don't see that being a problem. But you could cut them down and let them rot in two days. You don't need the wind to do that.

Floor Debate  
May 01, 2019

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LOWE: So, you're saying we could cut it and let it dry?

WAYNE: Yes. And the issue is-- and again, let me explain the difference between, real quickly, between a hemp crop and other crops. Hemp grows up to be as tall as me. It's a thin narrow stalk and the stalk gets a little thicker because some use it for fiber and some may use it for CBD with the seeds. The other plant you are referring to is a plant that grows four to five feet out, because you are looking for flower production, not seed or stalk production. You're looking for flower production because flower is where the THC is. That's why people don't smoke stalks, they don't smoke seeds, they smoke the flower. So it's a completely different plant. And if you were to ask any of our State Patrol, which they can't comment on policy while they're in here, but ask any of our local sheriffs, they will tell you I can drive down the street and see a difference between that other plant versus a hemp plant.

LOWE: Thank you for answering that question. So there would be no security.

WAYNE: It depends, again, if it was criminal or not. If it was criminal, State Patrol and the AG's Office and local DA would take over as a criminal matter, and I'm pretty sure the police would confiscate or do something that way. But even under that, they would have to have some time to get that done if it's a big acre field. If it's not-- unintentional violation, then that would be between our department. And I have faith in our department to protect the national security as far as how security should be regarding the unintentional violation.

LOWE: So there could be some extra costs involved that's not planned in this A bill?

WAYNE: No, I think our department, when it comes to bills, do a pretty good job of fleshing out what their needs are, and I think our Fiscal Office does a pretty good job.

FOLEY: One minute.

WAYNE: So, I think they have already taken those into account.

LOWE: All right. Thank you, Senator Wayne, for all your answers, I appreciate it.

FOLEY: Thank you, Senators Lowe and Wayne. Senator Bostelman.

BOSTELMAN: Thank you, Mr. President. Senator Wayne, you can just-- I think I asked you this before, you can just nod your head as I go through and talk, I just want something to get on the

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

Floor Debate  
May 01, 2019

---

record about labs. And I believe when we talked before that the university was one of the testing facilities, is that--

FOLEY: Senator Wayne, would you yield?

WAYNE: Yes.

BOSTELMAN: Is that accurate? Was the university one of the testing facilities in the lab?

WAYNE: Yes, I have the university or an approved lab, because the university feels like they may-- they may get so much testing, they want to make sure-- the department wanted to make sure they have leeway. So it's university or department approved labs.

BOSTELMAN: Right and I appreciate that. Thank you, Senator Wayne. With that, I just want to-- what I want to make sure that there's some standards put out there as far as that lab, what that lab may look like or needs to have, that it is a certified or accredited to do the testing or who is going-- or if not, who is going to be-- who will be certified to do the testing? Specifically in Colorado, they use a lab that is certified and accredited for at least-- looking at the 15 different cannabinoids for hemp. They use a lab facility that uses the same standards as pharmaceutical-- as a pharmaceutical lab. So it's the most accurate possible equipment, and it is very expensive. They use high pressure liquid chromatography with diode array detection. And I can't tell you exactly what that is completely down to the function of it, but I'm just want to make sure-- I would like to have on the record that these labs, as we do with the university, we do it where we're accredited, we're tested, and we're using the best equipment, the most detailed equipment we have to make sure that we're testing it to levels we need to be able to identify the cannabinoids that are in the hemp that's being processed. Thank you, Mr. President.

FOLEY: Thank you, Senator Bostelman. Senator Erdman.

ERDMAN: Thank you, Lieutenant Governor. As I'm reading through the information, Senator Wayne, on the fiscal note, I see that they are going to collect a processing fee, as well as a cultivator fee, and it says what those are, \$150 for a processor handler to a hundred-- \$100 to \$150; and then a cultivator is \$400 to \$600 per site. So, Senator Wayne, would you answer a question on that.

FOLEY: Senator Wayne, would you yield, please?

WAYNE: Yes.

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

Floor Debate  
May 01, 2019

---

ERDMAN: So, if I'm a farmer and I have a 10-acre field on this side of the road and then on the other side of the road I have another 10-acre field, is that two sites?

WAYNE: No, I believe that's one.

ERDMAN: So what would constitute a second site?

WAYNE: If you are-- I will get back to you. Site means any area that by the same legal description, field, greenhouse, so yes, I guess it could be two sites. Yes, you're right.

ERDMAN: Well, it depends. If the road was in the same legal description, it would be one site probably.

WAYNE: Yes.

ERDMAN: OK. And I also see that the-- I would assume it's a tax, is going to be collected at one cent per pound of seed and one dollar per ton of fiber, correct?

WAYNE: I believe so, yes.

ERDMAN: So if a hemp acre produces 800 pounds of seed, that would be \$800 an acre-- or \$8 an acre for tax on that, and if it did 3-ton fiber, it would be \$3 an acre. So that would be added to the fees that are collected?

WAYNE: Yes.

ERDMAN: So, Senator Wayne, what happens if a grower is found in violation of the statute? Is there a fine that is levied against that person for violating the statute?

WAYNE: Yes.

ERDMAN: Can you tell me what it is?

WAYNE: Yes. In the bill, so if it's unintentional violation, and there will be an amendment that we clarify some of the fees on our next round, but right now it's up to \$10,000 on the current bill. We are lowering that a little bit, and we are delineating between unintentional and intentional

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

Floor Debate  
May 01, 2019

---

violations, because intentional violations should automatically be referred to local law enforcement. Unintentional violations, there are three times you can make a mistake and then you are banned for five years. And those unintentional things are things such as you didn't plot far enough on your GPS, like you were going to do half of a field and not do it, and you only put half the field in, but you actually went three-fourths.

ERDMAN: OK. All right. So intentional would be-- who would be obligated to prove it was intentional or not? Would that be the inspector's job?

WAYNE: So, no, it would actually be the Director of Agriculture upon determination in Section 12, upon determination somebody intentionally violated would have to refer it over to the U.S. Attorney's Office, the Attorney General, and the local, and that's federal statute, not just ours.

ERDMAN: OK. I'm looking down on the fiscal note, I've scrolled down and it says LB657, AM998, and it talks about the fiscal note there being \$283,000 in General Funds. Did you see that? Do you understand what that means?

WAYNE: On page 2?

ERDMAN: Well it's page-- it says LB657 and dash AM988, Department of Agriculture.

WAYNE: Yes.

ERDMAN: It's the rest of it. What is that 283 for?

FOLEY: One minute.

WAYNE: That is what the-- this is a discrepancy between the department and, I believe, the Fiscal Office of what they're currently asking for from Appropriations, what they are currently doing, what they're saying that they need additional people for. And I think our Fiscal Office, and you will have to ask Fiscal on that, looked at everything and said, OK, here's the amount that is needed. And that's what they based their fiscal off of.

ERDMAN: OK. All right. All right, well, my time is about up. Thank you.

FOLEY: Thank you, Senators Erdman and Wayne. Mr. Clerk.

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

Floor Debate  
May 01, 2019

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ASSISTANT CLERK: Mr. President, Revenue Committee will hold an Executive Session at 2:00 in Room 2022.

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

WAYNE: Yes, Senator Erdman, I just wanted to put on the record, the amounts that I told you, so you have hemp right now per acre gross profit, this is gross profit, so understand what I'm saying, hemp fiber per acre is anywhere from \$300 to \$600. Hemp grain per acre is anywhere from \$1,100. They had to \$8,000. I know that is off now, completely off. That was up in Canada when there wasn't so many in Montana. If you recall, Montana has moved to over 22,000 acres of hemp, and so has Michigan and Oregon. So that has that high-end number has dropped significantly. So it's \$1,100 to roughly \$5,500 is what I got in an e-mail. And cannabinoid, the CBD oil, per acre, the high-end stuff, depending on what strand you grow, it's \$5,000 to \$10,000. So, I just wanted to put that on the record. And I-- in the effort of collegiality, I will yield the rest of my time to Senator Erdman.

FOLEY: Thank you, Senator Wayne. Senator Erdman, about 4:00.

ERDMAN: Thank you, Senator Wayne. I appreciate that information. One of the things of interest that you said in your comments was the profits were greater until the acreage or the amount of the crop increased. Will you answer a question?

FOLEY: Senator Wayne, will you yield, please?

WAYNE: Yes, I will yield to a question on my time.

ERDMAN: Is that what you said?

WAYNE: No, well, yes, because they were transporting it from Canada. And so that is the reason why this bill has to move forward now is that as more states continue to grow, we are going to get left behind. So we can wait for two years for the federal government to say here is our regs, or we can do what they have asked us to do to create our own set of regs and our own plan now and allow farmers. So, yes, the market is going down for that particular kind though.

ERDMAN: OK, So if this becomes a commodity like corn or beans or wheat and overproduction of those three commodities have driven the price into the basement, I would make an assumption that the same thing could happen with hemp. And so that information you gave me about what they are getting gross revenue per acre, if it follows the same avenue that other agricultural



Floor Debate  
May 01, 2019

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commodities have, it very well could be a crop that's very similar to the ones we raise now and not very profitable. When you have a very small acreage of something and you increase it dramatically, it drives the price down quite quickly, and we have tried, on several occasions, specialty crops in western Nebraska and those crops never seem to pan out exactly as they are projected. So, I appreciate you taking the time to answer my questions. Thank you.

FOLEY: Thank you, Senators Erdman and Wayne. Senator Erdman, your light was on, do you-- he waives the opportunity. Senator Wayne.

WAYNE: I will keep this short. Let's be clear here. The question-- and this was to Senator Erdman, but he just said that were-- people were allowed to try specialty crops. The question is, do we want government stopping our farmers from trying a crop? I think the answer is no. We tout free market all the time, and that free market drives innovation, that free market drives jobs, and here is an opportunity to free the market. This is an opportunity to free the market with a little investment from the state. We are talking potentially in the next 5 to 10 years, \$22 billion, \$22 billion industry, and we are looking at costing the state \$100,000. Let's put that in perspective. This is an opportunity to free an industry, to allow them to compete in the global market. We are on the new frontier of this industry and Nebraska needs to lead the way. And what we found out with the recent announcements in capital investments, one of the biggest industries growing right now is pet food and pet supplements. And you know what Europe and those are doing over in Europe? They are using CBD oil and hemp fiber as part of their supplements. If that gets approved, our farmers need to be ready to go, not waiting on us to get out of the way. I heard so many of my colleagues say we got to get government out of the way. Well, this is a prime opportunity for our farmers to get government out of the way. Thank you, Mr. President.

FOLEY: Thank you, Senator Wayne. Is there any further discussion on LB657A? I see none. Senator Wayne, you are recognized to close on the advance of the bill. He waives close. And the question for the body is the advance of LB657A to E&R Initial. Those in favor vote aye; those opposed vote nay. There's 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.

CLERK: 15 ayes, 6 nays to go under call, Mr. President.

FOLEY: The house is under call. All senators please return to your desk and check in. The house is under call. Senator La Grone, we're under call. Senator Lowe has authorized us to proceed. We're going to need a roll call vote on this. The question for the body is the advance of LB657A to E&R Initial. Mr. Clerk, please call the roll.

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

Floor Debate  
May 01, 2019

---

CLERK: (Roll call vote taken.) The vote is 41 ayes, 4 nays on the advance, Mr. President.

FOLEY: LB657A advances. I raise the call. Next bill on the agenda is LB209. Mr. Clerk.

ASSISTANT CLERK: Mr. President, LB209, introduced by Senator Albrecht. (Read title.) The bill was introduced on January 11, referred to the Judiciary Committee, which advanced the bill to General File with committee amendments. On April 29, those committee amendments were adopted. Senator Hunt had filed a motion to recommit LB209 to committee. That motion is now pending.

FOLEY: Thank you, Mr. Clerk. Senators Albrecht and Hunt, it's only been a couple of days, but you-- if you'd like to take a couple minutes each to refresh us on where we left off, you're welcome to do so. Senator Albrecht.

ALBRECHT: Just a couple minutes. Thank you, President Foley. Again, I rise with LB209 to visit the bill a little bit longer. But LB209 with the committee amendment of AM1432 and-- which becomes the bill, and Senator Howard's AM1524, were both strongly supported and strengthened our present informed consent statutes by providing information to women undergoing chemical abortions. Again, LB209 is about one thing, informed consent. Again, colleagues, I want to remind you that 55 percent of the abortions in Nebraska are medication abortions and those begin by taking the abortion pill, mifepristone. I will yield to Senator Hunt so she can open with hers, and I'll go a little bit longer on the next time. Thank you.

FOLEY: Thank, Senator Albrecht. Senator Hunt, you're recognized.

HUNT: Thank you, Senator Albrecht. I also just briefly would restate my opposition to the bill and my-- my urge for you to support to recommit this bill to committee. The original form that this bill was brought in stated that medication abortions could be "reversed" and that if patients reached out to a certain hot line or if they-- if they went to a certain group of doctors, that they would be able to get support in reversing those abortions. The committee amendment which was adopted to this bill watered it down so much that now the conversation has gone from "reversing" abortions into informed consent. I would say that this bill is not about informed consent, because the standard of-- that we're setting for-- for what we're telling these patients is so low. There's no evidence that abortions can be reversed. There's no evidence that that can be done. And administering progesterone to "reverse" an abortion is not FDA approved. And I think that passing this bill will cause physicians to mislead their patients. I think that it's the Legislature expanding government by interfering in the doctor-patient relationship with the intended purpose of misleading patients into thinking they can reverse this procedure with another drug. Doctors already inform their patients about the-- the effectiveness of mifepristone,

Floor Debate  
May 01, 2019

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the first drug that you take. Honestly, colleagues, that's why there's two drugs. You take the first drug, mifepristone, and then you take a second drug to complete the process of ending the pregnancy. Doctors and physicians already tell their patients, they already inform their patients about the effectiveness of mifepristone and, therefore, there's no need for this bill. The original intent of this bill has been watered down to the point that now we're voting on pencil shavings, to me. There's no reason for any of this to be in statute. And I'm happy to take the rest of the time today to talk about why that is. Thank you.

FOLEY: Thank you, Senator Hunt. Debate is now open on LB209 and the pending motion, long list of senators in the queue. Senator Pansing Brooks, you're first.

PANSING BROOKS: Thank you, Mr. Lieutenant Governor. I stand in opposition to LB209, as you think I-- as I presume you already know. And, you know, I-- I just wanted to talk about the amendments that I didn't file. And again, this is about informed consent, and informed consent is about the government coming in and telling-- and inserting themselves in between the doctor and the patient and telling the doctor we don't trust you, we want you to say these things, we don't trust your ability to perform your medical duties. So one of the amendments that I had considered bringing was about vasectomy reversal and the fact that there should be some sort of information that vasectomies can be reversed. I considered a requirement of informed consent requiring doctors to require patients to cough during prostate exams. I considered bringing an amendment saying that the Viagra side effects that last over four hours are painful and can be very detrimental to the male taking Viagra. I considered bringing an amendment requiring partner's consent before taking Viagra. Then you can jump to any other part of the medical field. How about, in eye surgery, informed consent that you could go blind? We should put that in our statutes, we should put actual language in our statutes, because people are too stupid and doctors are too inadequate to be able to properly represent and take care of their patients. Same with pacemakers, you put a pacemaker in, there's a really good chance that you could die, and that should be placed within our statutes. Informed consent, we need to force the doctors to treat their patients and talk to them appropriately. In fact, we ought to set up a whole-- a whole page on what every single thing that should be said, a script for them, a script for the people who write scripts. Same with aspirin and Tylenol, they should be required to say, when they hand out aspirin and Tylenol, I'm giving you this to manage your pain, but you could die from it. We've all seen the advertisements on TV about how you can die from almost anything that-- that they are advertising on TV. You can hemorrhage, you can do-- I mean, if it's not enough to scare you to death, watch TV, and I think Senator Chambers mentioned it before. People are skipping in the field, and meanwhile they're telling you in the backdrop that you could die from taking it, or very-- lose consciousness and all sorts of terrible things with every kind of medication that comes forward. But we're not requiring that. We're not requiring that kind of information. It's just on this, in this world, again, of dealing with women and their bodies. I-- I think it seems absurd to interject into the doctor-patient relationship in this manner. And again, as I say these things,

Floor Debate  
May 01, 2019

---

I've seen a number of you sort of smiling at what I'm saying because it seems absurd. It is absurd. It's absurd for the government to come in here like this and tell doctors how to treat their patients, how to move forward, how to communicate. And so in the same instance, on all of those activities that deal with men's health, everyone is looking like, well, that's absurd, we would never do that.

FOLEY: One minute.

PANSING BROOKS: Of course we would never do that. It-- we all sit in here. Half of us couldn't even pronounce the name of the drug we're talking about. I can barely say it. I've seen three different versions in the dictionary of how to pronounce it. I'm-- I'm reticent even to say it because I'm not sure if I still have it correctly, mifepristone. See? There. We can't even pronounce the drug that we're talking about, yet we're dictating how that drug should be managed, how it shall be dispensed, what shall happen, yet not one of us has had the medical training necessary to fully understand its use or its value or what's-- what's possible. And we already know that there are no-- there are no studies that show that what we're trying to do actually works. And again, we're--

FOLEY: That's time, Senator.

PANSING BROOKS: --dancing around whether we're trying to stop pregnancies or not. Thank you, Mr. Lieutenant Governor.

FOLEY: Thank you, Senator Pansing Brooks. (Visitors introduced.) Continuing discussion. Senator Clements.

CLEMENTS: Thank you, Mr. President. Didn't realize I was going to be up that quick. But thank you. I'd like to speak in-- against the motion to recommit and in favor of LB209. And again I wanted to reiterate the-- some information I received from my district. A woman wrote me this well-- this well-thought-out message. She wrote and gave me the following reasons why she said I should be in support of LB209. She says it's-- this is prowoman and proscience. Women deserve all the information regarding abortion to make a truly informed decision. This reversal protocol offers a real chance for the woman to rescue her child when she's changed her mind, as well as spell-- spare herself the pain and regret of losing a wanted baby. A small window of time, just two to three days, exist for a woman to continue a pregnancy after starting a medication abortion, and informing her of all of her opinions and where to find medical help if she changes her mind increases her chances to save her pregnancy. The short time frame makes early information extremely important, in my opinion. The reversal protocol already being offered is being successfully offered across the country and in Nebraska. Informed consent is a

Floor Debate  
May 01, 2019

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good medical practice in any procedure or protocol. A woman shouldn't have to find out later that she could have continued her pregnancy if only she had known it was possible. Then also, from my district, a medical doctor wrote to me: I encourage you to support LB209 allowing a woman to keep her pregnancy if she changes her mind regarding an abortion. The American Association of Pro-Life Obstetricians and Gynecologists strongly supports a woman's right to choose to keep her pregnancy and to attempt to reverse the effects of a medical abortion which she no longer desires. This process is safe for both the mother and her unborn child and offers a real chance for a woman to rescue her unborn child when she has changed her mind. I was glad to hear about this from a physician that this procedure-- procedure is safe, and then a national association of doctors with 25 members supports it. Personally, I know a woman who took the abortion pills about ten years ago. Since then, she has indicated her regret of that choice. This protocol wasn't known by her at that time. I wish she had been given this information to give her a chance to change her mind. I urge your support of LB209. I yield my time to Senator Albrecht.

FOLEY: Thank you, Senator Clements. Senator Albrecht, 1:30.

ALBRECHT: Thank you, President Foley, and thank you, Senator Clements. I really do appreciate this-- this dialogue that we're-- will be having probably for some time this afternoon. To Senator Patty Pansing Brooks, I had to call my dog, Buddy, "mifepristone" for about a month to get the word out myself, so I can understand where you would say that. That's why I was asking Senator Geist to try to help explain some of these words that some of us have trouble with, certainly me. Again, this is informed consent. If we do not have the ability to go out and let the women know in somehow, someway, based on the information I was provided by Senator Howard, the number of abortions in our state, I believe that we have a responsibility to let the ladies know that it can be reversed if they should take-- elect to take that first pill, mifepristone. Again, I have several letters. I would like to elaborate a little bit more, probably when I have a little bit more time on the mike, to talk about the Medical Association letter that we did receive, and a letter that I had received from Dr. Britt Thedinger. He's the-- he's an ear, nose, and throat doctor in Omaha. He hand-delivered a letter to me last week after the letter that you all had on your desk. And you probably didn't bring the information back from us talking about this information and this particular bill the other day, so I thought I would have some time and a little bit to read that into the record as well.

FOLEY: That's time, Senator.

ALBRECHT: Thank you.

FOLEY: Thank you, Senator Albrecht. Senator Geist.

Floor Debate  
May 01, 2019

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GEIST: Yes, thank you, Mr. President. And just I stand in 100 percent agreement with this LB209 and against the-- the motion to recommit. And I-- I want to be clear that we aren't dictating the procedure. We're not dictating the dose. We aren't dictating to a physician exactly what he has-- he or she has to do. There is very common, and I will say very common, decades and decades and decades of practice of physicians using progesterone to support a risky pregnancy. That is very common practice. And as I explained last time I was on the mike discussing this, the pharmacological, and maybe that doesn't register with people, but what I was trying to say in-- in plain layman's terms is mifepristone, what it does is it mimics a risky pregnancy, it mimics, and then, if taken to its fullest degree, actually causes a miscarriage. So if mifepristone has not taken yet, if it's not fully effective on its first dose, using progesterone is exactly the same procedure. It works exactly the same way--

FOLEY: One minute.

GEIST: --in a woman's body as it would if she had a risky pregnancy. So this is not new procedure. It's not snake oil. It is not smoke and mirrors. It is what has been done to produce healthy babies for over 50 years. I speak with authority. I have one of those kids. And so to say it's snake oil, it's not science, in fact, it's-- it may not have a study that shows specifically a double-blind placebo study. It has tens, fives of tens, at least, years of past history to show it is safe and it does this, it does this effectively.

FOLEY: That's-- that's time, Senator. Thank you, Senator Geist. Senator Bostelman.

BOSTELMAN: Thank you, Mr. President. I stand in opposition to the recommit motion, and I strongly support LB209. Kind of going along, following on the lines that Senator Geist had talked about, that the word "progesterone" literally means progestation hormone. It has been administered by doctors to pregnant women safely for more than 50 years. There is history that this does work. There is-- as far as helping the pregnancy along. And as Senator Geist talked about, in the case of a risk-- high-risk pregnancy, progesterone is administered already. So this is a natural follow-up, I would say, a natural use for this. A woman's body produces progesterone. It is something that she naturally does herself. This is just something that will boost that progesterone in her body to allow her to carry that child on if-- if that's her desire. One question that was brought up-- and I guess I have a question for Senator Albrecht.

FOLEY: Senator Albrecht, would you yield, please?

ALBRECHT: Yes, sir.

Floor Debate  
May 01, 2019

---

BOSTELMAN: One question I guess I have for you is, is-- this bill has come to the floor. It's come to you because of a reason, and that reason is because, I would guess, and you can-- you can correct me and you can tell me more about it. My guess is, is there is-- there has been someone, a woman that's been out there, has taken the first pill and then had no idea what to do, had no idea how to-- if-- if there was any possibility to save the baby, if there was not, and how and what this does would-- would allow that information to be provided. But there is actual people, women out here who have had the procedure started but didn't know where to turn, and could you talk about that just a little bit?

ALBRECHT: Sure, I'd be happy to. The first time I heard about bringing this bill forward, I visited with a gal out of California, Rebekah Hagan, and she let all of us know that were kind of taking a look at this bill that six years ago she had a-- she was going-- she didn't go into the clinic to have an abortion, and she was going to have it done medically. So it was also the same time as her firstborn was going to be turning a year old and she was going in to abort her second born. And she was in a tough relationship, didn't know-- you know, how could she possibly, you know, raise a-- a second child when it was hard enough raising the first one by herself? So she had the-- she had taken the first pill. They had given her a sack with the second pill and some medication, some antibiotics, and said, you know, just go home and in 48 hours take this other pill and everything will be expelled and-- and you can-- life goes on. Well, she went out to her car. She expressed to us that a feeling came over her that she was going to celebrate the birth of her firstborn but she was going to take the life of the second one. So that story, I mean, that was six years ago. She Googled can you reverse the abortion pill, the medical pill that she just took, and it took her to a hot line who immediately set her up with a physician that would be able to help her to full term, and what helped her was the progesterone. So, yes, that was a compelling reason for me to take this bill on and to let other women know that you can have this reversed and you can save the life of your child and you can live with the happiness. I've got her as a Facebook friend now. I'm-- I'm watching her two little boys grow up and they're both amazing, very healthy, and that was my motivation for the bill.

BOSTELMAN: Thank you, Senator Albrecht. So there--

FOLEY: One minute.

BOSTELMAN: --there are women, there are individuals out there who have experienced this and have the need to know, want to know where to turn to find out, to get more information so that there can make that decision upon themselves as to what they want to do. And what this bill does is allows that opportunity to get that information to that woman, to allow her to have-- to know where to go, to ask the questions, to make that decision that she wants to make-- that she needs to make, that she wants to make. I think that's an important thing we need to keep in mind. There

Floor Debate  
May 01, 2019

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are women out there that do have these questions, have had these questions. This just provides them an opportunity, provides them the help of where to seek more information so they're better aware of what they want to do, their next step in their pregnancy. Thank you, Mr. President.

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

ASSISTANT CLERK: Mr. President, a priority motion. Senator Chambers would move to bracket the bill until June 6, 2019.

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

CHAMBERS: Thank you. Mr. President, members of the Legislature, this is rules lesson teaching time. Now pay attention. Not all priority motions are created equal. I've taught you all how to jump to the head of the line with a priority motion. Now I have to teach you how to jump to the head of the line if a certain priority motion is up there: recommit. See, that-- that's a lesson, the little lesson, but there has to be one of greater priority than that, and that's what's up there now. These are the kind of bills where the group that's for it will fill up the queue, as they call it. But I wanted the opportunity to say a thing or two. But instead of doing that, I will do what I said I'm-- I'll-- the other day I would do. I'm going to read from Section 28-327. "No abortion shall be performed except with the voluntary and informed consent of the woman upon whom the abortion is to be performed. Except in the case of an emergency situation, consent to an abortion is voluntary and informed only if: (1) The woman is told the following by the physician who is to perform the abortion, by the referring physician, or by a physician assistant or registered nurse licensed under the Uniform Credentialing Act who is an agent of either physician, at least twenty-four hours before the abortion." Now does that mean the nurse is an agent at least 24 hours before the abortion or that this information must be given 24 hours before the abortion? This is what I mean by bunglesome language by bungling people who are interested in pushing an ideological or religious position instead of writing intelligent legislation. Grammar means nothing to you all, syntax means nothing. If you say pro-life, you could say abracadabra, jump down, spin around, and it would go in the statute, just like that, just as long as you're told it's pro-life. Let me go on. I'm-- I'm beginning to think pro-life means prostupidity. And if all these different people can give this information, how important could it be? All the way from the physician down to an agent of the physician, the particular-- these are the things that must be told. The particular medical risks associated with the particular abortion procedure to be employed including, when medically accurate, the risks of infection, hemorrhage, perforated uterus, danger to subsequent pregnancies, and infertility; (b) The probable gestational age of the unborn child," it should be fetus, at the time of the abortion is to be performed, "(c) The medical risks associated with carrying her child to term," it should be carrying the pregnancy to term, but they're so hung up on the religion, they write legislation as though it's a



Floor Debate  
May 01, 2019

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religious testimony. Subdivision "(d) That she cannot be forced or required by anyone to have an abortion and is free to withhold or withdraw her consent for an abortion." And anytime you're getting a procedure and you give your consent, you can withdraw it. This is just to make it as burdensome as possible and it's ridiculous. Then comes the new language that you all are considering, which I'm not going to read because I'm just dealing with what's in the statute now. "The person providing the information specified in this subdivision to the person upon whom the abortion is to be performed shall be deemed qualified to so advise and provide such information only if," and I'm the only one who knows this because I read all this trash, "at a minimum, he or she has had training in each of the following subjects: Sexual and reproductive health," but the students shouldn't have it so they can avoid these problems. "Anyway, "Sexual and reproductive health; abortion technology." What is that? But whoever it is must be trained in that. "Contraceptive technology," what is that? "Short-term counseling skills," where does that come from? "Community resources and referral; and informed consent." All that must be told, but that's not all. "The physician or the physician's agent may provide this information by telephone without conducting a physical examination or tests of the patient, in which case the information required to be supplied may be based on facts supplied by the patient and whatever other relevant information is reasonably available to the physician" or physician's agent. Relative information obtained, reasonably obtained from where? Trash, stupidity, but that's what you get when you deal with the so-called pro-life people. They don't read. They don't have to. They don't think because they can't. We're all getting it out there, aren't we? But I'm reading what you all put into the statute, all of which I fought when they were putting it in and I was on the scene. "The woman is informed by telephone or in person, by the physician who is to perform the abortion, by the referring physician, or by an agent of either physician, at least twenty-four hours before the abortion; The name of the physician who will perform the abortion; That medical assistance benefits may be available for prenatal care, childbirth, and neonatal care." What does that have to do with making a decision, a medical decision? "That the father is liable to assist in the support of her child, even in instances in which the father has offered to pay for the abortion." Legal advice, too, and that's what a doctor is required to give? Absolutely, because the crazy people have taken over the insane asylum. "That she has the right to review the printed materials described in Section 28-327.01. The physician or his or her agent shall orally inform the woman that the materials have been provided by the Department of Health and Human Services and that they describe the unborn child, list agencies which offer alternatives to abortion, and include information on finding immediate medical assistance if she changes her mind after taking"-- oh, that's the new language. Skipping that, "If the woman chooses to review the materials"-- but before I go on with that, let me check something out here. Must "describe the unborn child." Now they say an unborn child exists from the point of conception. How do you describe the coming together of the sperm and the egg? What do you tell her? Well, think about an egg, and think about an earthworm, and the earthworm goes into-- inside the eggshell. That's what it looks like at this point, crazy. People on this floor couldn't give these descriptions, and a person who's interested in an abortion is not interested in that. But you all know better for women than women

Floor Debate  
May 01, 2019

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know for themselves. But it's interesting how many men are concerned and interested in this, but they're not interested in the sexual assaults, the-- the trafficking, and all the other problems that fully developed women have, not interested in respecting women. That what shows the hypocrisy around here. But since we're just running out the clock, we may as well put into the record what we want to. "If the woman chooses to review the materials, they shall either be given to her at least twenty-four hours before the abortion or mailed to her at least seventy-two hours before the abortion by certified mail, restricted delivery to addressee, which means"--

FOLEY: One minute.

CHAMBERS: Now the post office knows this, but they're informing the post office, "which means the postal employee can only deliver the mail to the addressee." Is the postal employee going to read this in this abortion bill? You think the postal employee doesn't know how to deliver these letters? See how simple and silly these people are? I raise my voice for dramatic effect, to wake some of them up, because this is very dull and boring, and it tends to induce sleep. You're falling into the arms of Morpheus, who is the god who puts you to sleep. I wanted to wake you up. "The physician and his or her agent may disassociate themselves from the materials and may comment or refrain from commenting on them as they choose." Now my time is about up. I won't get to speak again, but I tried to do the best I can. But since my colleagues love this so much on other bills, I'm going to start again and read it on through. I'm giving--

FOLEY: That's time, Senator. That's time, Senator.

CHAMBERS: Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Halloran.

HALLORAN: Thank you, Mr. President, and colleagues. Before I got married-- and it took me a long time to figure out that I should get married. I was in my early 30s, so I was a slow learner. But before I got married, my mother and my grandmother and my sisters, four sisters, individually, not all at once, they didn't sit me all down at one time and give me this advice, but individually they said, Steve, a woman has a prerogative to change her mind and don't you ever forget it. I think that was sound advice, and I think it was sound and wise advice. A woman should have a prerogative to change her mind. Would Senator Pansing Brooks please yield to a question?

FOLEY: Senator Pansing Brooks, would you yield, please?

Floor Debate  
May 01, 2019

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PANSING BROOKS: I might change my mind, but yes. [LAUGHTER]

HALLORAN: Thank you, Senator, for not changing your mind. Do you agree that a woman should have the prerogative to change her mind?

PANSING BROOKS: I think anyone has a prerogative to change their minds and I am--

HALLORAN: Thank you, Senator.

PANSING BROOKS: Thank you.

HALLORAN: Senator Hunt, would you yield to a question?

FOLEY: Senator Hunt, would you yield, please?

HUNT: Yeah.

HALLORAN: Senator, do you think my mother and my grandmother and four sisters gave me good advice that a woman should have a prerogative to change her mind?

HUNT: Yeah.

HALLORAN: Thank you, Senator. That's what this is about, folks. This is not about ending a pregnancy, specifically. It's about a woman having control over her decisions and taking the prerogative to change her mind. You're shaking your head, Senator Hunt, but that's exactly what it is. We've got a-- have kind of a dichotomy here with the philosophies on-- and it comes from several senators. I've heard it on the floor and I-- at some level, I certainly agree with it, a woman should have decision making over her body, right? It's her body. And as long as she's making the decision to stop the pregnancy, which coincides with several of the senators that have spoken on the floor, as long as they agree with these senators and a few other people that ending a pregnancy is OK, then, smart lady, smart lady, we agree with that. But if a woman takes a prerogative to change her mind because she felt she made a wrong decision, and she takes that action or we encourage her to look into information to change that decision she made, then suddenly it's not a good idea, it's not a good idea. I don't know how-- it's very seldom that too much information is a bad thing. Now I know the argument is if it's bad information, it's a bad thing. But-- but I think we've heard discussion about a natural hormone that's used to stop miscarriages is probably not something that's a risky thing to do in that it's-- that it's net intended

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Floor Debate  
May 01, 2019

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effect will be positive, if that's the decision the lady makes, to reverse that decision that she felt was a wrong decision. A lady should have-- a person, human being, all human beings should have the prerogative to change their mind. I would ask anyone of you in your lifetime, and I don't need personal examples but you can share those if you like, if in your lifetime you have made a decision or taken an action that you afterward wish you could put time back in the bottle and say, gosh, I wish I hadn't done that, I wished I hadn't done that. Now some of those actions, we could come back and rectify and-- and-- and correct. Some of them, you just can't.

FOLEY: One minute.

HALLORAN: I'd yield that one minute to Senator Albrecht, if she wishes.

FOLEY: Thank you, Senator Halloran. Senator Albrecht, 1:00.

ALBRECHT: You're so kind. You know, Senator Chambers, I-- I've learned a lot from you, and you know I have, and I appreciate everything that you are doing to help us with the time today. But when you read through the-- the bill, that's the bill that I had to amend, and whatever was in that bill obviously had gone to the Judiciary Committee to be brought out to this floor. So if anyone either said the wrong thing, the punctuation was wrong, spelling, whatever it is, was certainly not with any of us probably on this floor. This bill has been around for a while. But I do appreciate what you have to say about it. Maybe next year we can work on cleaning some more of this language up.

FOLEY: That's time, Senator.

ALBRECHT: Thank you.

FOLEY: Thank you, Senator Albrecht. Senator La Grone.

La GRONE: Thank you, Mr. President. I rise in opposition of both motions and in favor of LB209. And so Senator Albrecht can continue the commentary she was just having, I'll yield the remainder of my time to her.

FOLEY: Thank you, Senator La Grone. Four minutes, 45, Senator Albrecht.

ALBRECHT: Thank you, President Foley. I would like to go back to speaking about a letter that I had received, and I know that Senator Lathrop also had a copy delivered to his office, from this

Floor Debate  
May 01, 2019

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medical doctor, Dr. Brett Thedinger. He-- he does serve in the capacity of the president of the Nebraska Medical Association. But he-- he gave me the same letter that he had-- had passed out to Chairman Lathrop. And I don't know whether he's shared it with anyone or not, but I'll certainly share mine. But this is from him personally on his personal letterhead from the Ear Specialists, where-- where he works. On April 25, 2019, he reports that regarding LB209, this is on a personal basis. He said that on March 19 of this year, the Nebraska Medical Association sent you a letter stating our opposition to LB209, and after additional information, we have taken a neutral position. Personally, I support the passage of LB209. A physician and surgeon, it is my-- as a-- as a physician and surgeon, it is my ethical responsibility to inform my patients of all of their options, the risks, the benefits, and the alternatives, so that as to make an informed decision regarding their medical treatment. LB209 provides a pregnant woman additional information that the abortion pill may be reversed. As advocates for physicians and the health of all Nebraskans, it is my request that you support and vote for LB209. Sincerely Dr. Britt Thedinger. You know, that does also carry weight with me. I did take a look at the letter that was submitted to the committee and that was passed out for all of your review, dated March 19. And there does happen to be a story, I'm sure, behind that as well, but-- but they also-- with the Nebraska medical association's heading, they did pass-- I did pass out for you, which you might not have brought it back to the floor, letting this body know that after they had received a copy of AM1432, which contained the scientifically accurate and mutually agreeable language related to the mifepristone, the Nebraska Medical Association had no objection to LB209, as amended by AM1432. Therefore, the Nebraska Medical Association would accordingly withdraw their opposition letter dated March 19, 2019, and would adopt a neutral position on LB209 as amended. Again, that's from the president of the Nebraska Medical Association, Dr. Britt Thedinger. But again, personally, he is letting me know, along with many other doctors that I have letters to read, if you'd like to read those and hear about those for the next two hours, I'd certainly be able to share some of those with you. But it takes a lot to put these bills together and to know that-- that we're doing the right thing for-- for the general public and that we are letting them know that they-- they have all their options available and spelled out to them, you know, through the doctors that-- that do care about the risks, benefits, and alternatives. All options should be given to men and women. All of us need to know whether it's a procedure, whether it's medication, whether it's, you know, you have a broken ankle and-- and these are the ways that we can do it.

FOLEY: One minute.

ALBRECHT: Maybe you'll-- maybe you'll be able to walk on it. Maybe you won't. Some people live. Some people die. I mean we need to know, and we're going to that professional that knows what he's doing so that he can advise us whether this is something that we'd want to proceed with. So with that, I'll yield back the time. Thank you.

Floor Debate  
May 01, 2019

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

GROENE: Thank you, Mr. President. I have not yet spoken on this bill or issue. I admire Senator Albrecht. She's been handling it quite well, the debate. On the abortion issue, I will reiterate my belief that I've said on this floor before, that when I meet a pregnant woman, I meet a mother, black and white to me. On this issue particularly, I do not understand why anyone would be against a patient being fully informed on the effects of a drug they are taking and what options they have if they change their minds. Common sense-- it's their body, it's their health, it's not the physician's. Many of you met my sister here with-- who is here today. She was a surgical nurse all her life, very well-respected in Omaha and Houston where she lives. She was in high demand by surgeons. They knew she was reliable, good, steady hands, and she was always under demand for surgery. She's had a long career in medicine. She shook her head as she heard-- listened to some debate-- of the debate. She said over and over again, when she took a drug into a patient, she had a consent form. She informed them of-- of-- of the effects of the drug, what could be done if they wanted to reverse the effects, and their rights that they could cease treatment at any time. This is not uncommon. It's common sense. It's the patient's body. It's the patient's child. It is not the medical profession's. You really want to go into a doctor and be giving diagnosis or a treatment and not be told of the effects of that treatment and if you change your mind, there is an option to change your mind on that treatment. I'm talking about the death of a human being, but those of you who don't believe that and believe it's a medical procedure, I'm talking on your terms. I don't care what the treatment is, what you consider an illness and what you'd call life and death. This is a commonsense legislation. And because of the political implications, it is more important because even a medical professional might have an opinion on this procedure and want to keep the truth from their patient. So as far as the rest of the issue, I've stayed off the mike because I truly believe when I was asked in the past to bring this type of bill, I said, this is a woman's issue, not a white-haired, old man's issue. So Senator Albrecht has handled it well. Senator Slama has been of great assistance to her. And if Senator Albrecht wants some time, I will yield my time. All right, Julie, who will be a mother someday, I will yield my time to Julie, Senator Slama.

FOLEY: Thank you, Senator Groene. Senator Slama, 1:45.

SLAMA: Oh, God, I hope not anytime soon. Thank you, Mr. President. So I'm up in the queue here shortly as well to have a little bit of a longer piece. But I would just like to re-emphasize I rise in support of LB209 and opposed to MO71 and MO76 on this bill. This is an informed consent bill through and through in that if a woman who is taking the two-pill abortion should be empowered to know that if she takes the first pill, she has the chance, if she changes her mind, the opportunity to possibly seek medical care and rescue the pregnancy, possibly. There's a chance. It's informed consent all the way and I'll read through the committee amendment itself

Floor Debate  
May 01, 2019

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here when I'm up at the mike. I'd just like to quickly emphasize some statistics about abortions in Nebraska. This is referencing the 2017 Nebraska statistical report of abortions from the Department of Health and Human Services. In 2017, there were 1,958 abortions performed in Nebraska; 1,302 of them were for the first time. For 1,302 Nebraskans, this was the first time that they had been through the procedure, and I'm guessing not all of them had finished medical school, so they may not have known the specifics--

FOLEY: That's time, Senator.

SLAMA: Thank you.

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

B. HANSEN: Thank you, Mr. President. Colleagues, I stand today to reaffirm my support for LB209. And I kind of first want to talk a little bit more about the research behind the bill and why I think it's still relevant to this conversation, some I think has been lost a little bit. The research with this situation is a little bit unique in the fact we have a pregnant woman who is trying to save the life of a child after taking abortion medication. In order to do a double-blind, research-controlled, placebo study, we have to have-- we have to provide this woman with either a placebo pill or a pill that could potentially save the life of her child. In that instance, doing a study such as this would be deemed unethical and that's why you don't see many research studies, if any, that pertain to this kind of situation, which I know some senators might be alluding to as why don't we do some more of this kind of research to see if we can do it. It's unethical. That's why we don't do it. I think Senator Arch has alluded to that before previously in testimony. When we cannot perform a research study because of underlying conditions such as this, then we rely more on case history, previous evidence, observation, and the "relephant"-- literature-- relevant literature, and that is what we call best practice. Most physicians, researchers understand best practice. You use the best information that you have at the time to make decisions when you rely on all the evidence at hand to make a clinically informed decision for a patient and a situation. Now I want to talk a little bit more about the most recent-- recent Delgado study that we hear about that involved 547 women who initiated progesterone therapy. Some were excluded due to varying reasons, including loss of follow-up or changing their minds and followed through with the abortion. So it's my understanding that the purpose of this study is not only to determine if the reversal therapy is possible and safe, but to compare different progesterone regimens to determine effectiveness. And so just before we kind of delve into the research here just a little bit, I want to kind of-- because people say this is the Delgado study, like it's this one guy who did this study. Actually, there were seven people involved with this study and many of these are physicians, Ph.D.s, master's. And so some of the organizations that they're affiliated with is the Department of Family and Preventive Medicine; Department of Behavioral

Floor Debate  
May 01, 2019

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Sciences and Leadership, United States Military Academy; the Magnificent [SIC] Maternal Health Program, Nigeria; the adjunct clinical associate professor, Hahn School of Nursing and Health Science, University of San Diego; associate clinical professor, Han School of Nursing and Health Science, University of San Diego. And they did research, 43 studies. They referenced 43 articles in this study, which is pretty significant. And so I think first, before we get into this, I also want to talk a little bit about an animal study that was done, because some people say, well, if we can't do this on humans then maybe there's been some studies done on animals. And there actually has been. There's been a Japanese study. I'm going to read it here just a little bit. This Japanese study provides basic-science evidence of the ability of progesterone to negate the effects of mifepristone. In this experiment, one group of pregnant rats was given mifepristone while a second was given mifepristone and progesterone. In that group that only received mifepristone, only 33 percent of the pups survived. In the group that-- that received mifepristone and progesterone, 100 percent of them survived. So we do see a little bit of a-- little bit of a difference there. So back to the Delgado study, I want to talk a little bit about that because, again, it's trying to determine some of the effectiveness, the efficacy of treatment and kind of exactly which treatment would be best and so-- and also kind of when is progesterone is administered, what is the reversal rate. And at five weeks they had 25 percent; six weeks, 46 percent; seven weeks, 49 percent; eight weeks, 61 percent; and nine weeks, 77 percent. Obviously, the-- the farther along with gestation that we have we are going to see a little bit higher survival rate. And so I think that is also clinically significant that we should not be ignoring. And thirdly and in kind of conclusion, the use of-- a conclusion to this study, the use of progesterone to reverse the effects of the competitive progesterone receptor blocker mifepristone appears to be safe and effective. This is just-- this is what they determined from the study, again, not one person, seven people, multiple references.

FOLEY: One minute.

B. HANSEN: Progesterone therapy makes biological sense, has been previously published as effective in an animal model and is supported by this case series which demonstrates a statistically significant difference in survival between treatment groups and historic control. Mifepristone is-- is not associated with birth defects as well. Now based on this new data, two reasonable protocols can be suggested for women who seek to reverse the effects of mifepristone. I think Senator Hunt alluded to this before, kind of the different types of administration of mifepristone: intramuscular, orally, and other kinds of ways. So with some of my other time that I'm going to have later, I'm going to talk a little bit more about the other study that Dr. Grossman does that he-- that some of the other senators allude to that's in contrary to this study and what they found in some of the-- some of the arguments that they might be having about this and why it doesn't really pertain so much to this. Thank you, Mr. President.

FOLEY: Thank you, Senator Hansen. Senator Slama.



Floor Debate  
May 01, 2019

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SLAMA: Thank you, Mr. President. So I rise still in support of LB209, but I'd just like to get into a bit more detail about what this bill, LB209, with the committee amendment AM1432, does and the changes it makes in the statute. This begins on page 1, towards the bottom, subsection (e). "Research indicates that mifepristone alone is not always effective in ending a pregnancy. You may still have a viable pregnancy after taking mifepristone." Again, I cited the Reproductive Access Web site the last time this bill comes up to cite a statistic that the mifepristone alone works only about 65 percent of the time. So, yes, this change is backed by science. If you change your mind and want to continue your pregnancy after taking mifepristone, information on finding immediate medical assistance is available on the Web site of the Department of Health and Human Services. Continuing on, towards the bottom of page 2 we've got an addition. This is not changed, I'll let you know when we get to the addition. Physician or his or her agent shall orally inform the woman that the materials have been provided by the Department of Health and Human Services and that they describe the unborn child, list agencies which offer alternatives to abortion, and here's where we get into LB209. This is the addition, "and include information on finding immediate medical assistance if she changes her mind after taking mifepristone and wants to continue her pregnancy." Again, informed consent. We scroll on down here to page 7 of AM1432, the committee amendment which was adopted, subsection (d): materials designed to inform the woman that she may still have a viable pregnancy after taking mifepristone. Material shall include the following statements: "Research indicates that mifepristone alone is not always effective in ending a pregnancy. You may still have a viable pregnancy after taking mifepristone. If you change your mind and want to continue your pregnancy after taking mifepristone, it may not be too late." Again, science backs these statements as true. Materials, including contact information, that will assist the woman in finding a medical professional who can help her continue her pregnancy after taking mifepristone. Continue to scroll down to the last page of the committee amendment, section (5)-- I mean subsection (5) which reads, "The Department of Health and Human Services shall publish and make available on its Web site materials designed to inform the woman that she may still have a viable pregnancy after taking mifepristone. The materials shall include the following statements: 'Research indicates that mifepristone alone is not always effective in ending a pregnancy. You may still have a viable pregnancy after taking mifepristone. If you change your mind and want to continue your pregnancy after taking mifepristone, it may not be too late.' The materials shall also include information, including contact information, that will assist the woman in finding a medical professional who can help her continue her pregnancy after taking mifepristone. The Department of Health and Human Services shall review and update, as necessary, the materials, including contact information, regarding medical professionals who can help a woman continue her pregnancy after taking mifepristone." That's what we're debating here. We're not-- we're not citing some Delgado study.

FOLEY: One minute.

Floor Debate  
May 01, 2019

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SLAMA: We're talking-- thank you, Mr. President. We're talking about using progesterone as an attempt to reverse the abortion. We are merely stating in statute what is true, that after taking mifepristone a pregnancy may still be viable if the woman changes her mind. And this is no small matter of informed consent as Senator Bostelman put it best. This is one of the biggest decisions a woman will make in her lifetime and this is a matter of, in some cases, life or death. So, yes, I think a woman should be informed of all of her options, especially when it comes to whether or not the first pill that she takes to have an abortion will be 100 percent effective at completing that abortion. Thank you, Mr. President.

FOLEY: Thank you, Senator Slama. Senator Arch.

ARCH: Thank you, Mr. President. I-- I wanted to respond to a part of the discussion that actually occurred in the first three hours of this debate. Towards the end of the first three hours, one of the questions that was raised, and I don't want to get too far down into the weeds here, but one of the-- one of the questions that was raised is who is qualified to prescribe progesterone in this particular situation? And-- and I would say the short answer is any physician, and I use that term very broadly here, licensed independent practitioner. Somebody-- somebody licensed under the state of Nebraska to prescribe, any licensed independent practitioner that is licensed within the state of Nebraska would be qualified and could prescribe progesterone. Now, that being said, I-- I-- I also want to point out that there's, within medicine, a lot of constraints placed upon prescribers as to whether they will or will not participate in-- in prescribing and/or conducting procedures, surgery, all of that. And-- and there's a number of those things that come into factor here. One, one, of course, is whether they've had the adequate training, whether they have gone through-- whether they're-- whether they are personally comfortable with prescribing not only training in school, because after you're out 20 years, but also experience. Are you-- do you believe that you personally have the qualifications? And some physicians would say, no, I'm-- I'm-- I'm not going to get into that; I'm not going to be working with that type of a-- of a patient population because I don't feel as though I have the qualifications. And they self-select out. They would also examine literature. They are-- they are, every month, they're receiving publications from their own associations in their specialty or primary care. They're reviewing those. They're deciding whether or not they're going to participate. They review new drugs that are coming out on the market and whether or not they would see that as something that they would prescribe versus perhaps a drug that they're more-- more familiar with, more comfortable with, and would they be changing. And-- and so they're reviewing the literature as well. They would look at things like community standard. Is this something that's going on with this-- within this community or within my specialty within this community? Here, of course, communities vary. And so in the city of Omaha, you may have specialists that would be available to accept a referral, but in some outside of some of the urban areas you're not going to have those specialists in your community and your practice probably would be broader than those in the Omaha area, particularly in primary care where the specialists would be available. So you make those-- you

Floor Debate  
May 01, 2019

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make those decisions. You make a decision based on liability and do I feel comfortable that I-- that I understand all of the mechanisms of this particular drug and how it works. You make that decision as well. So I-- I say that because there was some discussion of, well, should this be primary care, should this be specialists? Who, who should be involved in the prescribing of progesterone? And frankly, I think that that's left to the physician to make that call based upon a number of these factors. It's one of the reasons why licensed independent practitioners, whether it be an APRN or a physician, whatever it might be, go to school for a long time, because they're called upon to make clinical judgment in-- in these decisions whether or not to participate based upon a number of these factors. So I just wanted to-- I just wanted to point that out. I-- I personally have had some of that experience because I-- in working with pediatricians, you see some pediatricians, for instance, that move quickly into helping out kids with ADHD and prescribing the medication that could help a child with ADHD, where some pediatricians would back away and say I'm going to refer those to a child psychiatrist, I don't want to manage that. Or perhaps juvenile diabetes--

FOLEY: One minute.

ARCH: --and-- in-- and if there's an endocrinologist, a pediatric endocrinology in particular available to refer, the primary care pediatrician may refer quickly to a pediatric endocrinologist and not handle those. And others would say, no, I'm comfortable with diabetes, I'm comfortable with the dosing of insulin for-- for juvenile diabetes. And so they would participate in that. So I would only-- I would only caution senators to-- to be very careful that-- that in the-- in who should be able to prescribe progesterone, be very careful because the independent clinical judgment comes into play here. Thank you very much.

FOLEY: Thank you, Senator Arch. Senator Albrecht.

ALBRECHT: Thank you. Again, I'd just like to rise and-- and just talk about how good this legislation really is, how really quite simple it is. It's simply giving that consent, informed consent, to the patient and let them know that this is a-- a procedure that over 500 women across the country have had successful births. But informed consent truly is good medical practice. It will give this woman a second choice, a second, excuse me, a second chance at choice. And for those women who do change their mind, giving them that opportunity to spare themselves the pain and the regret of, you know, the no-longer-wanted abortion but, yet, the pain and regret of losing a wanted child. There are a lot of scenarios out there that we could talk about. Unfortunately, we have a lot of time to talk. I should probably talk about recipes instead of-- of sad stories, but there are stories out there, folks, that, you know, somebody took somebody to a clinic, it could have been a family member, and said, hey, this needs to happen. And that young lady might not want it to happen. There are situations where you've dated your-- your boyfriend

Floor Debate  
May 01, 2019

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for, you know, four or five years, probably should have got married three years before that but something happened. And the woman does decide to go have that abortion. Maybe she doesn't talk to her boyfriend about it. She goes home and he says, hey, you know, maybe this is our-- our time, we need to do something; I don't want you to abort, I want you to have that child. You know, there are other people involved in these decisions, whether it be, you know, a significant other, your husband, your, you know, you know, whoever it is in your life. But you, you really need to know that that option is available to you. Sometimes as a woman you take-- take all those burdens on yourself without really talking to-- it does take two to make this happen. So everyone needs to be involved in the decision-making process, in my mind. Certainly, you know, it's a woman's choice. But she also has a choice to change her mind midway through because your emotions are very high when you find out that you are going to be having a child and you're going to be responsible for that child. I do recall people talking on the floor about, you know, you want these babies to come into the world but then you don't want to take care of them. Well, again, it takes two. And it takes some major decision-making when this happens. And it-- and it needs to be-- you know, I-- I've listened to a lot of men talk about how they never even had the ability to-- to listen to their significant other, wife, whatever, and just nobody included them. And I think you have to realize that all situations are different. Everyone-- I mean, of the thousands of abortions that are done just in the state of Nebraska, I mean, there are a lot of them that maybe if these gals would have just known that they could have reversed it, especially knowing that 55 percent of the women today are having that medical abortion, there-- there's time, folks. And we have the ability on this floor to let them know that they do have that choice to make a decision to-- to go the other way. But I do believe that this informed consent is the bedrock of good medical practice for any medical procedure protocol for abortions. We already--

FOLEY: One minute.

ALBRECHT: --have informed consent frame work in our law which lists a number of the things that an abortion provider must tell a pregnant woman so that she can make an informed and truly voluntary decision. So this legislation would add a section to our existing informed consent statutory framework and simply require that a woman goes in for an abortion, she must be given all the information that she needs to make a truly informed decision, including the information she needs to find help if she should change her mind. Thank you.

FOLEY: Thank you, Senator Albrecht. Senator Hilgers.

HILGERS: Thank you, Mr. President. Good afternoon, colleagues. I rise in support of LB209. I want to thank Senator Albrecht for the work that she has done. I appreciate all the-- the positive comments on this bill today as well as during the three hours that we had the other day. We spoken a lot about the Delgado study and I want to talk about something that jumped off the

Floor Debate  
May 01, 2019

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page when I read it. We could talk about some of the methodologies in the progesterone regimens. We could quibble about some of the different P values. But what came to me, what was important to me when I read that was there's a key number: 1,600 or so women who took the first drug in that methodology decided that they needed more information. They wanted more information so they reached out to a hot line and they got more information. That information was the availability for them to have some medical treatment through progesterone to potentially reverse some of the impact of the first drug. Now some of those women decided with that information that they ultimately didn't want to take the progesterone. Some of them did take it and some, some of them took it and had some-- there was some impact from taking the progesterone. They had a healthy baby. Now we can quibble over whether dozens of babies were born because of that treatment or we-- or it could be hundreds. But there's no doubt, if you read that study, that the women who were empowered by that information were able to make a decision. They had the choice to make a decision. They were empowered by information and there are babies who alive today, who wouldn't otherwise be, with that information. The lesson I take from the-- the Delgado study is that we want-- we want to empower women in that moment to be able to make the decision that they-- the decision that they can make. And if they want to help ensure that they have a pregnancy and save that baby, they have the information to be able to do it. So what do we do in this amendment? And keep in mind LB209 has been amended. If you're coming into this debate today, you missed the first part. When we were here the other day, we amended it with the Judiciary Committee amendment. And if you hear some of the debate, you might think, well, what's the Legislature doing? Are they-- it sounds like they might be, you know, mandating a particular protocol, a particular medicinal regimen. Are they-- are they requiring the doctor to give all sorts of notices and requirements and things? Boy, this sounds like it's really, really an intrusion and if you-- I want to-- I want to let people know, I think everyone here in the body knows, but I want people especially watching at home know what this amendment does. There are essentially three sentences that this amendment does. There are three requirements that a woman, in order to have informed consent, that this bill would do. The first says, "Research indicates that mifepristone alone is not always effective in ending a pregnancy." That is an absolutely true statement. That's information. I would think that we-- we would want people to know that. Those 1,600 women who wanted-- they wanted that information. They called the hot line to get that information. What's the second thing? Second thing is, you may-- women must be informed that, "You may still have a viable pregnancy after taking mifepristone." Again, those women who called the hot line, they were grateful to know that. That's an-- that is an absolute, unassailable fact. And the third thing is, "If you change your mind and want to continue your pregnancy after taking mifepristone, information on finding immediate medical assistance is available on the web site of the Department of Health and Human Services." That's it. Now there are variations of those three sentences throughout the amendment, but at its core what we are saying is we want to make sure that women have access to certain information so they are empowered, just like the 1,600 women that were-- that were covered in the Delgado study, they're empowered to have the information so they can make a choice. Some of those

Floor Debate  
May 01, 2019

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women may not choose to do anything with that information; some might. But I think if we're hearing, for me, the lesson from the Delgado study is make sure that we're giving people in that terrible-- at that time, it's a difficult time, we-- we want to make sure that they have the information to make that decision. So I support LB209 and I would yield the rest of my time to Senator Ben Hansen.

FOLEY: Thank you, Senator Hilgers. Senator Ben Hansen, one minute.

B. HANSEN: All right. Thank you. And so kind of dove-tailing into what Senator Hilgers said when it comes to like making sure that we are empowering people to make the right kind of decision, the other big study that we kind of talk as opposed to the Delgado study that we hear sometimes the opposition talk about this bill is one done by Dr. Daniel Grossman. And again, when we look at studies, we look at the history, look at case history, look at-- we also want to look at the authors. Want to see is there any ties that authors might have to certain organizations that might kind of compromise the integrity of a study? And this is a name that I hear time and time again in HHS Committee whenever we have a bill come forward that has to deal with contraception, abortion-like topics. Not saying they're all bad, all the bills that come forward. But Dr. Daniel Grossman is a board member of the NARAL Pro-Choice America, and he's-- he's been a consultant for Planned Parenthood. So when we're looking at studies, we got to also look at the integrity of the author to see if their past behaviors might compromise their studies. And this is one of the big studies that we tend to hear from the opposition. And Daniel-- Daniel--

FOLEY: That's time. That's time.

B. HANSEN: --Daniel Grossman is-- Thank you, Mr. President.

FOLEY: That's time, Senator.

B. HANSEN: Yeah. Thank you, Mr. President.

FOLEY: Thank you, Senator Hansen. Senator Erdman. Senator, before we do this, let's just pause for a moment for a couple items for the record.

ASSISTANT CLERK: Thank you, Mr. President. Communication from the Governor. (Read re: LB23, LB31, LB31A, LB180, LB222, LB252, LB304, LB428, LB445, LB556, LB556A, LB638, LB663, and LB698.) In addition, LR104 by Senator Walz, that will be referred to by the Speaker, referred to the Reference Committee for reference to the appropriate standing Committee. LR105 by the Health and Human Services Committee calls for a study. That also

Floor Debate  
May 01, 2019

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will be referred to the Executive Board. LR106 by Senator Matt Hansen also calls for a study of the Boiler Safety Code, will be referred to the Executive Board. Communication from Senator Hilgers that the Executive Board has selected LB294 as a 2019 Speaker's major proposal. And finally, two reports from the Health and Human Services Committee regarding certain gubernatorial appointments. That's all I have at this time.

FOLEY: Thank you, Mr. Clerk. Continuing debate, Senator Erdman.

ERDMAN: Thank you, Lieutenant Governor. I appreciate that. Listening to debate this afternoon, I appreciate what Senator Hilgers had to say, pretty straightforward and concise, made a lot of sense. What concerns me is that we're even having this discussion. No one that was aborted ever did anything wrong. Those babies are innocent. We always want to protect the downtrodden and the forgotten and those that aren't spoken for, but we don't talk about the babies that they kill. The report that I read about the statistics on abortion since 2000, in Nebraska we have killed about 50,000, 50,000 people. Nationally we've killed one generation, one whole generation. That doesn't bother some people. It bothers me. I have three sons. I have nine grandkids. I can't imagine someone making a decision to end a baby's life, phenomenal. I can't even-- I can't get my hands around it. How barbaric to kill an innocent baby. And they say, well, it's a fetus. Wait nine months and see what it is. It's a baby. As I said, I'm disappointed that we're even having this discussion. This bill should have come up. We should have read the intent and we should have voted. Shouldn't even be any discussion about what we do as Americans, what we do as human beings. But we're talking about aborting babies. And that doesn't bother some of you? That really concerns me. I am in support of LB209. It makes sense. But common sense is a flower that doesn't grow in everybody's garden. I get that. But this is a bill that makes sense and I support LB209, and with that, I would yield the rest of my time to Ben Hansen.

FOLEY: Thank you, Senator Erdman. Senator Ben Hansen, 2:20.

B. HANSEN: Thank you, Mr. President. OK, I just want to finish a couple of my thoughts about Dr. Daniel Grossman. We talked a little bit earlier about his past affiliations with Planned Parenthood, about with the NARAL Pro-Choice America. And again, so sometimes we look at past experience and want to take sometimes what they say with a grain of salt, like Senator Chambers says, the size of Gibraltar. So this is a name I hear time and time again with legislation such as this. And I'm actually going to go back to one of his studies actually that he cites. And he does assert there is not enough evidence to suggest that progesterone treatment is more effective than doing nothing at all, that's his assertion; that actually, per his own data, shows otherwise. And according to some of his data, Dr. Grossman's data, shows that in pregnancies of six weeks of gestation or earlier, the survival rate for babies were 20 percent when mifepristone was taken alone, and with progesterone 38 percent, almost twice as much survival rate. At six weeks'

Floor Debate  
May 01, 2019

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gestation, alone with mifepristone 23 percent, with progesterone 42 percent. I think any mother would really like to know if there was something out there that would double the chance of her saving her child. I think it's behooving upon us to make sure they have information available, if they so choose. And so I think--

FOLEY: One minute.

B. HANSEN: --that's kind of one of the big purposes behind this bill. And even just, which kind of-- you know, is beyond-- like it's hard for me to fathom a little bit, he's even ascertained that we should start looking at telemedicine abortion, something I never heard of before until I started delving into the research and some of the stuff that he's, you know, alluding to in the future and that's chemical abortion home via telemedicine. And I think that's absolutely disgusting, in my opinion. And so I-- when we look at this research, we want to look and see who's doing it, you know, what the-- what the references are, where the information is coming from. And that was kind of the whole point of this, me getting up here and talking about some of this. I think eventually I'd like to talk a little bit more about informed consent, which is what this-- the purpose of this bill is for, no matter what that informed consent is, information that is, but what the purpose of it is, the risks, the benefits of treatment, and the options the person might have. So--

FOLEY: That's time, Senator.

B. HANSEN: Thank you.

FOLEY: Thank you, Senator Hansen. Senator Lowe.

LOWE: Thank you, Lieutenant Governor. Changing it up just a little bit, at noon today there were some students outside, in the Rotunda, playing musical instruments. They were the string project from UNK. They were ages from 2nd grade until middle school. And they didn't hit all the notes correct, but it was an incredible little concert that they had. It was nice to see. It was nice to see these young people out there playing. And to think that their parents made the choice to have them. I have some information here that in 2017 Nebraska had a pretty good year. We only killed 1,958 babies. That's a pretty good year when we only kill that many. That's a shame. Let's look at that in years. Just in 19-- or in 2017, if you'd take each one of those babies and convert it to a year, we would have killed one every year since the time of Christ, since the time I was born, since the time he lived. That was just one year. And that was a good year. Other years were not so good. We need to give mothers a chance to say, wait a minute, I overreacted, I'd like to stop this. And that's what this will do. It will give the doctors that administer-- administer the



Floor Debate  
May 01, 2019

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first drug the opportunity to say, you can stop this. We can save babies. With that, I'd like to yield the rest of my time to Senator Albrecht.

FOLEY: Thank you, Senator Lowe. Senator Albrecht, 2:45.

ALBRECHT: Thank you, President Foley. And thank you, Senator Lowe. You know, not just listening to Rebekah Hagan talk about her little boy, when I decided to take this bill on, and I think this is important because I think with all of us in all of our priority bills, we do it for a reason. And this one, to me, you know, there was the Delgado study. I'm not so much into all of the medical studies and-- and things. I let other professionals take that on. But I always love to brag about my 12 grandchildren. My husband and I have 12, 6 boys, 6 girls, between us. And I'm here to tell you that three of those I know positively would not be here today if it wasn't for the progesterone. So sometimes when you think about, well, is this really, you know, good science, I mean I'm here to tell you they are beautiful, they are healthy, they are alive and well. And my daughter-in-law had a miscarriage and they recognized that that was her problem is that she needed the progesterone. So they immediately found who could help her and that's where she went. My daughter, one of them, has four children. One was a heart baby at birth, became a high-risk mom for the other three that she had. And all three of them came a month early. So without the progesterone to-- to keep everything strong and healthy so that she could have healthy children, that, again, was progesterone that they were using. So you know, half of our children, our grandchildren, are here because--

FOLEY: One minute.

ALBRECHT: --of the progesterone. And I just think people need to sit back and think about this, because women don't talk about this. I had to ask permission from both of my moms, are you OK for me to talk about this, because, you know, they weren't going in for an abortion. They were just trying to have a healthy baby and bring one into the world. So there's-- it-- again, I think everyone in here knows someone that has had issues with pregnancies, whether it's a miscarriage or whether they felt like they needed to have an abortion. If they're struggling today with, you know, depression, maybe, even suicide or whatever, just because they-- had they only known that they could have made a different choice, they need to have the options available to them to make the right decision, the most informed decision, so that they--

FOLEY: That's time, Senator.

ALBRECHT: Thank you, sir.

Floor Debate  
May 01, 2019

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FOLEY: Thank you, Senator Albrecht. Senator McDonnell.

McDONNELL: Thank you, Mr. President. I support the amendment from Judiciary Committee and the work that Senator Lathrop did. I support Senator Howard's amendment. I also want to thank Senator Albrecht for the work she's done and-- and I support LB209. I know Senator Ben Hansen had some more information that he was trying to give us and I'd like to yield the remainder of my time to Senator Hansen. Thank you.

FOLEY: Thank you, Senator McDonnell. Senator Ben Hansen, 4:35.

B. HANSEN: Thank you, Senator McDonnell. Thank you, Mr. President. So I just wanted to talk a little about informed consent again. I talked about this last time we brought this bill up, about what informed consent really is. I think speaking as a chiropractor, as physician, this is something we have to deal with every day. I know in the legal field they have to deal with it. And many other professions you have to deal with informed consent, which is basically letting people know what they're kind of getting into, what are some of their options. And so according to the American Medical Association, the process of informed consent occurs when communication between a patient and a physician results in the patient's authorization or agreement to undergo a specific medical intervention. In seeking a patient's informed consent, physicians should, A, assess the patient's ability to understand relevant medical information and implications of treatment alternatives and to make an independent, voluntary decision and implications of treatment alternatives. Kind of sticks out in my head a little bit right there. And B, present relevant information accurately and sensitively, in keeping with the patient's preference for receiving information, the physician should include information about the diagnosis, the nature and purpose of recommended intervention, the burdens, risks, and expected benefits of all options, including forgoing treatment. I think that kind of relates to a lot of what we're talking about. And even the American Cancer Society defines informed consent as you are told about the risks and benefits of other options, including not getting treatment. And that-- and that is-- that is the purpose of this, isn't it? You know, I think whether you want to-- you know, whether you change your mind, whether you don't, I think this, the whole purpose of this, is to make sure that people getting relevant information, and it is relevant information, in a timely manner that can potentially save the life of a child. And to me, that's very important. I think this bill is very important. And I want to thank Senator Albrecht for bringing this bill and everyone who's talked about it, whether you believe that the studies pertain to this or not. I think it is good informed consent. And like I said before, I am very conscious about the government ever getting involved in any kind of relationship between a patient and a physician. I think the physician should be able to take care of the patient without the government telling what they need to do. But there are some instances where informed consent is important. I have to do it in my office as well. You know, I'm legally obliged to say things to my patients about-- about treatment, what are the benefits, what are the risks, and what are their options. Like when they come to me as a

Floor Debate  
May 01, 2019

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chiropractor, I can tell them, when somebody comes to me with low back pain, I have to say, OK, we can take care of you. Here's, you know, I think here's-- here's our goals with our treatment. Here's what we're going to try to accomplish. Here are some of the risks that can happen due to treatment. And you know what? In case you don't want to do any of this kind of stuff and you change your mind, here are some other options. You may want to go see a spinal surgeon. You may want to get a second opinion. Again, it's our responsibility as physicians to make sure that they know all their options. And that's what I have to deal with all the time. So I appreciate this bill going forward and I'd like to see everyone put the green light on for this bill when it comes-- when it comes to the point of vote. Thank you, Mr. President.

FOLEY: Thank you, Senator Hansen. Senator Murman.

MURMAN: Thank you, Mr. Lieutenant Governor. Again, I rise in support of LB209. Making sure that medical health professionals provide all the information a patient needs to make a truly informed decision should be something that we should all support. Every woman deserves to be given all the information she needs when making a decision, especially a decision that is going to end a life. This is an information bill stating that mifepristone alone is not always effective in ending a pregnancy. You may still have a viable pregnancy after taking mifepristone. For those women who might be having second thoughts after taking the initial mifepristone pill, this is information they should have. This process offers a chance for women to rescue their baby when she has changed her mind about a medical abortion. This medical abortion pill reversal process is already available to our constituents here in Nebraska, but it's not required to explain the possibility to reverse the effects of the initial mifepristone pill. Progesterone is a natural hormone that can be prescribed after the effects of the mifepristone pill. It's been prescribed to "supplementarily"-- supplementally nurture and help develop a viable pregnancy. I'd just like to mention that we talk a lot about losing population in greater Nebraska and in Nebraska in general. There's been about 50,000 babies aborted since the early 1970s in Nebraska. Just think that of, you know, I don't want to really express, you know, make this an economic development issue, but just think what that would do for the state if we had 50,000 more voters, more taxpayers. On Monday I mentioned that this bill is pro-life, pro-woman, and pro-information. I wanted to add that, yes, this is a pro-choice bill, just as Rebekah Hagan had the choice to receive a medical abortion, she had the choice to reverse the effects of that mifepristone pill. I urge all of you to support LB209, and I will yield the remainder of my time to Senator Albrecht.

FOLEY: Thank you, Senator Murman. Senator Albrecht, two minutes.

ALBRECHT: Thank you, President Foley. And thank you, Senator Murman. Knowing we have time here, I do have several letters. They are not all the same. All are different from all over Nebraska. So I thank the folks that took the time to do that. I do have a letter here that I'd like to

Floor Debate  
May 01, 2019

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read from a gal from Holt County. She says, thank you for sponsoring and cosponsoring LB209. I worked as an ultrasound technician for many years in the ob-gyn field. On occasion I scanned patients for fetal age determination who were considering an abortion. The emotional stress that they were dealing with was obvious. Many worries and problems were blocked by clear thinking. This bill would allow them a little time to settle down, take a step back, and know that they have options. Many times in the cold light of day we change our minds in the opposite direction. I'm glad that you understand and I hope that your efforts are successful. I have another one from a gal here in--

FOLEY: One minute.

ALBRECHT: --Lincoln. I support this bill because I believe all women need to be notified they can still change their minds and even if they have begun a medication-induced abortion. I also support it because I believe every child in the womb has the right to life, liberty, and the pursuit of happiness. And maybe this information given to mothers will preserve the lives of some of these helpless victims. Thank you.

FOLEY: Thank you, Senator Albrecht. Senator Morfeld.

MORFELD: Thank you, Mr. President. It's hard to really know where to begin on some of this. It's fascinating to me about how a lot of people run around here strutting around like little peacocks talking about how much they really care about Nebraskans and how much they care about the unborn, particularly when they show little regard to those that are actually living in terms of providing for healthcare, providing for critical services that many of them have themselves. And hypocrisy aside, I think it's also important to note that I'm opposed to this bill because where do we stop with informed consent and requiring it? Why do we even have doctors at all at that point? They can just repeat everything that the state mandates to them. For many of the people in this body -- well, maybe not this body because it was about six or seven years ago. But many of you may remember one big conservative line that we always heard about with the Affordable Care Act was the Obama death panels, this idea that there would be these panels and they would make decisions of life and death and, you know, they'd sentence you to die or something. Now factual basis aside, it's interesting to me how a lot of folks in this body who are proponents of this are also proponents of making it so that we don't have government interference, government control over certain aspects of our life except when they want to regulate and impose their morality on us. In that case, it's fine. We can have government interference then. That's what bothers me about this bill is, number one, it sets a dangerous precedent for requiring informed consent, particularly when it only applies to women and their health, information that can already be provided to them, by the way. Second, I don't appreciate the hypocrisy behind some of these different bills and some of these pro-life measures,

Floor Debate  
May 01, 2019

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particularly when little regard is given to the children that are actually born and their mothers. And third, the whole basis of this bill, regardless of the amendment, is based on completely bogus science. If you look into the other things that this journal publishes, it publishes antivaccination articles that links vaccinations to autism. It's completely bogus. And don't even get me started on the antivaccination rumors and nonsense that's out there. If there's one thing that's going to kill us all, it's probably going to be the anti-vaxxers. So we can talk about that another day. That was an interesting discussion my first year in this body. But, colleagues, this bill is based on, number one, bogus science; number two, sets a dangerous precedent that we wouldn't apply in almost any other circumstance; and number three, the people that are pushing for this bill primarily are the same types of folks that don't care about healthcare for all Nebraskans, for the people already born shown complete disregard. Colleagues, they may have the votes for this, but they don't have my vote, and I'll stand firm on that. I don't buy the arguments. This is a political ploy. I won't play into it and I'll oppose the bill. With that being said, I'll yield the remainder of my time to Senator Cavanaugh, if she so chooses.

FOLEY: Thank you, Senator Morfeld. Senator Cavanaugh, 1:10.

CAVANAUGH: Thank you. I don't know if I have enough time to say what I want to say right now, but I will go quickly because Senator Ben Hansen talked about informed consent. Informed consent I think is a really important thing to discuss here. Last month, in April, was sexual assault awareness month and the theme of this year's sexual assault awareness was, I ask, which is informed consent. So I wonder if this body would be willing to make an amendment to this bill, or maybe if I brought this bill next year, to have informed consent before you enter into sexual intercourse with me. And, gentlemen, I apologize in advance, you're going to be uncomfortable. Do you know, female partner, that this may result in pregnancy and that pregnancy, if taken to term, may result in abdominal pain; baby blues; constipation; hemorrhoids; hormonal shift; perineum soreness, which is-- earmuffs everyone-- vagina to your anus, tearing and, yes, that happens when you push a human out of your vagina; vaginal bleeding and discharge; postpartum hemorrhaging, which I had and could have died from; headaches; deep vein thrombosis; postpartum preeclampsia;--

FOLEY: That's time, Senator.

CAVANAUGH: Thank you.

FOLEY: Thank you, Senator Cavanaugh. Senator Blood.

BLOOD: Thank you, Mr. President. It's hard to follow that. So I'm just going to do a speed round here. I stand against Senator Chambers' motion to bracket. But I'm going to be asking Senator

Floor Debate  
May 01, 2019

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Lowe, who hopefully didn't hightail it out of here when he saw I was in the queue, Senator Cavanaugh, Senator Walz, and Senator Wishart. But I'm going to do it in the proper order. I'm just warning everybody so we can get this done quickly. I'm really having a hard time, not with necessarily the bill but the conversations on this floor. And I also want to finish Senator Lowe's anatomy lesson that we started earlier this week. I keep hearing pro-woman, pro-science-- and these words are being spoken by men-- and-- and other statements. Today and the other day when we debated this, and so it tells me more and more that unlike the men on this floor and the laws that they may pass, and they'll pass on behalf of Nebraskans, that we are clearly defined by our wombs and I don't know that I like that I'm defined by my womb. I'm reading Dorothy Day: The World Will Be Saved by Beauty right now, and-- and I have all these thoughts going through my head because my ninth grandchild was due this last weekend. And by the way, they all belong to my oldest daughter who's a very devout Catholic, so I'd be interested in people's comments on that. And then I hear people talk about how they are antiabortion, and that's a good thing. But I'd be curious, the men on this floor, how many have one, two, three children and did your wife use the pill and do you understand the concept of what happens when your wife takes the pill? Because if you're antiabortion, your wife should not be taking birth control pills. And if you are antiabortion, your wife should not have used in vitro fertilization. Now I'm not here to say that I'm against either of those things, but I'm saying that we have a lot of men speaking about women's issues that they clearly don't understand and I find that concerning when you read something off a piece of paper that somebody gave you. With that, I'd ask that Senator Walz would yield to a question.

FOLEY: Senator Walz, will you yield, please?

WALZ: Yes.

BLOOD: Senator Walz, where does a woman's egg live?

WALZ: Her ovaries.

BLOOD: Good job. Senator Cavanaugh.

FOLEY: Senator Cavanaugh, will you yield, please?

CAVANAUGH: Yes.

BLOOD: In order for pregnancy to happen, what must occur?

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

Floor Debate  
May 01, 2019

---

CAVANAUGH: Sex and sperm coming into an egg.

BLOOD: Very good answer. Senator Wishart.

FOLEY: Senator Wishart, will you yield, please?

WISHART: Yes, I'll yield.

BLOOD: How long will an egg hang out through the fallopian tubes looking to be fertilized?

WISHART: I believe it's 12 to 24 hours.

BLOOD: Excellent. Good job. Oh, good, Senator Howard is back. Senator Howard, would you yield?

FOLEY: Senator Howard, will you yield, please?

HOWARD: Yes, I will.

BLOOD: How many days do sperm cells have to look for an egg before the sperm actually dies?

HOWARD: Five to six days.

BLOOD: Oh, good job, Senator Howard.

HOWARD: Thank you.

BLOOD: Since Senator Lowe is not here, Senator Clements, you had a lot to say. Let's see how you're doing in anatomy.

FOLEY: Senator Clements, will you yield, please?

CLEMENTS: Yes.

BLOOD: After fertilization, when does implantation usually start?

Floor Debate  
May 01, 2019

---

CLEMENTS: I'm not sure.

BLOOD: OK. That's fair enough. It's six days after fertilization.

CLEMENTS: All right.

BLOOD: When does a pregnancy officially start?

CLEMENTS: I believe when the embryo attaches to the uterus.

BLOOD: OK, so when a fertilized egg implants in the lining of the uterus. Good job. So you got 50 percent. You wouldn't have passed if you were in school but you passed today. And thank you, Senator Clements. You've been a good sport. I cannot stress enough, especially the men that keep looking down and won't look at me when I talk about this-- thank you, Senator Dorn. This--

FOLEY: One minute.

BLOOD: --is an important topic. We cannot continue to make-- identify women by their wombs. If the men are going to stand up, be informed, know what you're talking about. Don't read it off a piece of paper and don't tell me about my body. I already know, as do the other women on this floor. If we make laws, just like we make them for farms and taxes and everything else, know what the hell you're talking about, please. Thank you, Mr. President.

FOLEY: Thank you, Senator Blood. Senator Hunt.

HUNT: Thank you, Mr. Lieutenant Governor. I-- I have been like taking notes this entire couple hours that we've been talking about this because this is finally my chance to get on the mike and address some things, and there is definitely not going to be time. But to Senator Ben Hansen's comments about Dr. Daniel Grossman, who's done a lot of research on this, Dr. Dan Grossman is a personal friend of mine and I reached out to him to-- to fact-check some of the things that Senator Hansen said. Senator Hansen was quoting, I believe, some of the research that he-- that he did in this review of the Delgado study. Also, Senator Hansen, I'm going to have a question for you, if you want to make your way down here. But what-- what Dr. Grossman told me was that beyond six weeks, the fact that they used ultrasound to screen patients first, didn't report how many, makes it difficult to interpret the results. And we don't have any study of mifepristone past seven weeks. So basically, progesterone has not been shown to increase the likelihood of pregnancy, that it-- that it will continue after mifepristone. There's no evidence of that. Dr. Grossman is a professor of ob-gyn in San Francisco. He studied at Yale and Stanford. He's on the



Floor Debate  
May 01, 2019

---

boards of a few organizations that support the legal right to an abortion and that does not disqualify him as an expert. Dr. Delgado, on the other hand, he's a paid consultant for the Pope John Paul VI Institute, so he's somebody who I would really question his conflict of interest potentially. I don't know if Senator Hansen knows how academic authorship works, because he said, why are we calling this the Delgado study; there's so many authors on here. In the medical field, typically the first author is the person who contributes most to the paper. It's their idea. It's their team that's working on it. There's other fields, like economics, business, finance, and those papers are typically listed in alpha-- alphabetical order. So that's why we call this the Delgado paper, because this is his design and his study. Senator Albrecht, I'm really glad that Britt Thedinger has engaged his Legislature about his personal opinion based on his religion, but he is an ear specialist. And so when we have a question before us about ears, I will be sure to reach out to Dr. Thedinger for his professional opinion about that. And my opinion of the-- of the NMA has gone down. I do not see them as a credible organization providing information to our Legislature when they are led by somebody who will let their religious beliefs interfere with the work that we're doing for the people in Nebraska. This is not informed consent. This is the Nebraska Legislature providing medical advice without a license. There-- we are no better than any number of whack jobs that you can find on the Internet that hopefully DHHS isn't going to be referring these-- these patients to, to go reverse their abortions. Because although that's no longer the purpose of this bill, that is the entire intent behind this bill. And we have reduced this bill and pulled out little things and brought it down to basically nothing. So which is it, colleagues? Some of you are saying, well, like-- like Senator Murman, like I support the green copy of the bill, I understand that medication abortion is reversible, I really believe that. So is that what we believe? Or is it that this is about informed consent, because it can't really be both. That doesn't really make a lot of sense to me. There's really no reason for us to pass this bill. The concept of abortion reversal is debunked. It's not true. I feel like we're just kind of holding on to the last dregs of the-- the assumed morality behind this entire concept. But people who are voting for this look like fools because the science has been laid out for you. The study has been debunked. We know that there's a study in process that is being backed up by an institutional review board, by an ethical review committee--

FOLEY: One minute.

HUNT: --that's been submitted to ClinicalTrials.gov so that it's going to be monitored. So why don't we wait to pass a bill like this until we see what the actual research shows us once the study is actually done? Let's call this what it is. You're voting on this because you're afraid of the fallout from the pro-life lobby and the evangelical right. And there was a time in our country when people on the right, people who were religious, people who had antiabortion beliefs would still make decisions based on science and facts. And when you pass laws like this, you look like unprincipled fools. It's weak. And you can be against abortion. That's not my criticism on this. I will never say that you shouldn't be against abortion. But that's no reason to support this bill

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

Floor Debate  
May 01, 2019

---

because we're creating a bill that's not based on science, it's not based on facts, and it's getting us closer and closer to this place where we're putting nonscientific consensus into bills and interfering in the doctor-patient relationship. That's not the role of the Nebraska Legislature. I wouldn't do it to a podiatrist. I--

FOLEY: That's time, Senator.

HUNT: --wouldn't do it to a chiropractor.

FOLEY: That's time, Senator.

HUNT: We shouldn't do it to women's healthcare providers.

FOLEY: Thank you, Senator Hunt. Senator Cavanaugh.

CAVANAUGH: Thank you, Mr. President. First off, I would like to thank Senator Albrecht for her work on this. I know that this is very important to you and I respect that this is important to you. And this is a very serious issue for obviously everyone in this body and I think it's being treated as such by this body and it's having a full deliberation. So thank you, Senator Albrecht, for bringing this issue, for working with the committee, for working with multiple committees on this. And I would ask, would you be willing to yield to a question?

FOLEY: Senator Albrecht, would you yield, please?

ALBRECHT: Yes, I would.

CAVANAUGH: Thank you, Senator. So one of the concerns that I've had with this is the liability issue. And I'm frustrated with the NMA's shifting responses to this bill, because I don't believe that that's the role that they should be playing. But who-- who's liable for the outcomes? If-- if a person-- if a woman goes to a doctor and receives this reversal drug, who's liable if things don't turn out the way that she wants?

ALBRECHT: Who's liable if she doesn't go to full term in making this choice?

CAVANAUGH: If she doesn't go to full term or if she has birth-- if she does go to term and there are birth defects or she changes her mind again, I mean, who-- who-s-- who-- where does the liability lie here?

Floor Debate  
May 01, 2019

---

ALBRECHT: Well, if she took the first pill and is-- has changed her mind and not followed through with the second pill, I'm not an attorney but if she would go to another doctor and he would again let her know what her options are, I will give you this progesterone, I'm sure that there's a protocol that the-- the physician who sees that woman will take on. I mean there is no guarantee--

CAVANAUGH: OK.

ALBRECHT: --if you have a healthy birth that you're going to not have issues with your children.

CAVANAUGH: Right.

ALBRECHT: So I would imagine that whoever the attending physician is would be that. But what I will say is if there is something that goes wrong and with the mifepristone and the second pill,--

CAVANAUGH: Yes.

ALBRECHT: --and she still doesn't abort the child, then she's going to have to go to the next level and have it surgically removed. So--

CAVANAUGH: OK.

ALBRECHT: So hopefully,--

CAVANAUGH: Thank you.

ALBRECHT: --there's more--

CAVANAUGH: Thank you. I-- I-- my point is that I'm concerned that we haven't considered that there's a lot of moving pieces and so that's something that I probably will be talking to you about between now and Select File. But we can do that moving forward. So thank you, Senator Albrecht. There's been a substantial number of statements made on both Monday and today about this body's desire to give women a choice, and as a woman and a person who believes that I should be able to make my healthcare choices and decisions the same manner as my male colleagues do which is, just to clarify, to make them with my healthcare provider and not the

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

Floor Debate  
May 01, 2019

---

people sitting in this Chamber, I'm sorry but I don't trust a single one of you to make my healthcare decisions for me. Statute 28, Section 335 prescribes that a woman must have her physician physically present to ingest the first pill. If this body is serious about the words being spoken on this bill about decreasing abortion, we should start with striking that requirement. It is far more likely that if you have gone through the trouble to take off work, arrange rides, show up to your physician's office, you are exponentially more likely to take that first pill once you are in the office. If you could instead--

FOLEY: One minute.

CAVANAUGH: --take it home and consider your options at a different time, you might make a different choice, which would result in what we're talking about here. But we shouldn't stop there. This body stood up almost unanimously on this bill to declare that we want to support women when they find out they are expecting. We have an opportunity here, in this body, to live up to the words being spoken. We have an opportunity to be a family friendly state by expanding Medicaid's coverage, including family planning, contraception, prenatal care, respite care, home health, home visitation, fully funding public education, funding behavioral health for the youngest through life. We need to seriously address the preschool to prison pipeline, addressing intergenerational poverty, including unplanned pregnancy. We have missed out on opportunities to enact caregiver unemployment, paid FMLA, tipped minimum wage, SNAP benefits for drug felons, insurance coverage for in vitro procedures. There are so many, so many things we could be doing as a body to help women that are either expecting or don't want to be expecting. There are so many things as this body--

FOLEY: That's time, Senator.

CAVANAUGH: Thank you.

FOLEY: Thank you, Senator Cavanaugh. Senator Pansing Brooks.

PANSING BROOKS: Thank you, Mr. Lieutenant Governor. I-- I am going to just support some of the discussions that have-- that people have had today regarding opposition to LB209. And I would like to give the rest of my time to Senator Hunt.

FOLEY: Thank you, Senator Pansing Brooks. Senator Hunt, four minutes and a half.

HUNT: Thank you, Senator Pansing Brooks. That's a nice surprise. I have a lot of fellow pro-choice colleagues in this body who have been really willing to work with Senator Albrecht, and I

Floor Debate  
May 01, 2019

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admire them for that. But I have to tell my colleagues and I have to tell Nebraskans, I am not willing to work on a senator who is willing to do anything to chip away at the doctor-patient relationship because I will not tolerate this continued pressure on women's healthcare providers. That's just a bright line that I draw and it's a hard no from me all the way across. If you support this, you are not serious about actual evidence. You just care about the partisan ideological point, not the science. This is a case of fabricating science to back up your opinion, not of basing policy off of actual science. We've put the cart before the horse here, and this is a really dangerous precedent to set, which has just kind of been the theme of the day today, right? If this was true, and once again I would ask my colleagues, what is it about, is it about reversing abortion, is that the goal, to let people know that that's their choice? When we're talking about informing women of all their options, is that coded language saying the option is abortion reversal, because that's what I think we're all talking about here. If this was true, I would support their doctors informing their patients about this, which they already do. There is no reason to put this in statute because doctors are already telling patients the likelihood of mifepristone working and what to do if-- if they change their mind. They come back in. They induce vomiting. They don't take the second pill. Ethical doctors are already giving this information. I would support doctors telling patients about this because that's ethical practices, but I would never support mandating doctors to say anything in statute. Can we mandate that doctors recite passages from hamlet at the operating table? Can we mandate that doctors talk to their patients about the moon landing being fake before they give them a vaccine, which of course wouldn't be supported by the journal that this original study was put in. This is religiously motivated activism leaning on the scientific method for support and eroding public confidence and science at the same time, because it gives the impression that there's science on both sides. Sometimes there is not science on both sides. You know, two plus two can't equal five. It's just four. And you cannot fabricate evidence to fit your opinion to put into policy. This really erodes the public's confidence and trust in our Legislature as having the public's best interest in mind. My constituents, for example, who testified against this bill in committee, who have sent e-mails, I'm sure, to many of my colleagues and to me, who are medical professionals in Nebraska, I represent UNMC, a lot of people have reached out to me and told me this is really bad policy. What does this tell them about their Legislature? When we're trying to attract and retain talent in Nebraska, what does this tell medical and scientific professionals about the standard of science and reason that we have in statute from the very top of our government here in this state? I can't wait until I can work with enough colleagues who know a bad bill when they see it and have the sense to put science and evidence before feel-good ideology that looks good on a mailer. I'm not doing anything in here to get put on a mailer. Our constituents are not stupid. And if any of them are confused about why you voted a certain way, if any of them are mad because you didn't support the pro-life bill, just explain it to them.

FOLEY: One minute.

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

Floor Debate  
May 01, 2019

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HUNT: Take their phone calls, knock on doors. I knocked on 22,000 doors and, you know, all those people are calling me. They're coming to my town halls. They're writing me e-mails. They're challenging what I do. They're tweeting at me. They know that I'm accessible to them because I campaigned and I know who I represent and they know they can talk to me. And I take the opportunity to explain to them why I vote how I do because that's what representatives are supposed to do. But if I want to do this again and I end up here for eight years, I will probably never see a day in this state when I have the opportunity to work with people who put science before ideology, and I think that's really sad, because we need to have the courage to reject a bill like this and explain to our constituents the right way. We can be pro-life, we can be antiabortion, but that doesn't mean that we put anti-science into statute. Being pro-life is not being anti-science. This isn't a second chance.

FOLEY: That's time, Senator.

HUNT: It's about beating women over the head that we don't believe she should be aborting.

FOLEY: Thank you, Senator Hunt. Senator Clements, you're recognized.

CLEMENTS: Thank you, Mr. President. I was doing some looking around in statutes and found a-- just wanted to reply to this informed consent not being necessary, and found that we do require health information in other areas of treatment for Nebraskans. And what I found was LB132 from 2014 was introduced by Senator Nordquist and it passed 40 to 1. It was called the Indoor Tanning Facility Act and it says an operator of a tanning facility shall post a warning sign in a conspicuous location. The sign shall include the following: Danger, Ultraviolet Radiation, Follow Instructions, Avoid overexposure. Overexposure can cause skin cancer. Wear protective eyewear. Failure may result in severe burns or long-term injury to your eyes. Medicines can increase your sensitivity. Consult your physician before using sun lamps if you're using medication. It's just an example that we do need-- we do give information to protect people in-- who may not be aware of the options they have and the steps they should take. Also, I think doctors are instructed to do no harm and I haven't heard any evidence that this protocol harms women or the unborn. If it's such junk science, I think somebody would have brought up an example of harm being done by this procedure. With that, Mr. President, I'd yield the rest of my time to Senator Slama.

FOLEY: Thank you, Senator Clements. Senator Slama, just under three minutes.

SLAMA: Thank you, Mr. President. Where do I begin? In the last half hour we've heard some things asserted on the mike. First off, I'm still in favor of LB209, support it along with the committee amendment, which has been adopted. One quote I would like to address stated by one

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

Floor Debate  
May 01, 2019

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of my colleagues on the floor just now is, I do not see the NMA as a credible organization, end quote. So if we as legislators are not competent enough to make any type of bills regarding medical decisions, but we're still tasked with doing that job, how are we supposed to seek out the expertise if we in this body are discrediting the very doctors that we're trusting, we're leaning on for expertise when it comes to these bills? That assertion if problematic, to say the least. We've also heard a few times over that the men in this body have no business legislating on bills that have solely to do with women. Well, the introducer of this bill, well, actually, would the introducer of this bill yield to a question?

FOLEY: Senator Albrecht, will you yield, please?

ALBRECHT: Yes, sir.

SLAMA: Senator Albrecht, are you a woman?

ALBRECHT: I believe I am, yes.

SLAMA: OK. Thank you very much. Senator Geist, would you yield to a question?

FOLEY: Senator Geist, would you yield, please?

GEIST: Sure.

SLAMA: Senator Geist, are you a woman?

GEIST: I am.

SLAMA: Oh, fantastic. So we've got three women who have spoken in favor of this bill and, you know what, I'll use my "woman card" here and say this bill is OK. The guys can speak on it. And if we're only going to be able to speak or give our colleagues permission to speak if a bill directly--

FOLEY: One minute.

SLAMA: Thank you, Mr. President. --directly impacts them, we had a bill up here, LB472 earlier this week which only impacts Gage County. Last time I checked there was only one member of this body who resides in the county affected, Senator Dorn, who's been a fantastic

Floor Debate  
May 01, 2019

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sport today. I guess with what we're asserting on the floor today, only he should have been able to speak on that bill at all and provide his opinion. And finally, before I run out of time, I would like to agree with Senator Morfeld on one point. Vaccines are good and I would encourage all Nebraskans to get their children vaccinated. We beat measles in 2000 and it's come back because of anti-vaxxers. So we can both agree on that statement. So we'll end on a positive note. Thank you, Mr. President.

FOLEY: Thank you, Senator Slama. Senator Bostelman.

BOSTELMAN: Thank you, Mr. President. I stand opposed to the bracket motion, opposed to the recommit motion. I strongly support LB209. And I yield the rest of my time to Senator Albrecht, if she would like it.

FOLEY: Thank you, Senator Bostelman. Senator Albrecht, 4:50.

ALBRECHT: Thank you, President Foley. And thank you, Senator Bostelman. Do you know, it's always good, that's what we're here for, to talk about both sides of the story and how we feel about things. But I will definitely tell you that-- that I do believe in the Nebraska Medical Association. I have now been on my third year and I absolutely do look to them for-- for some information, whether a bill is-- is something that-- that is good, bad, indifferent. They're going to let us know. But also we need to think about the people behind that glass. The lobby who brings this information to our committees have a lot of say in whether something is right, wrong, or indifferent. Now I would like for all of you to figure out the letter that came to you on March 19. I want you to go find out who the lobbyist is for the Nebraska Medical Association and you find out who wrote the letter. I'm not reading that into the record. I absolutely will not do that because I don't believe that that came from that board, not with all of the information that I have received from all of the different doctors. And I think it's terrible to discredit the medical association who we all lean on for our healthcare. And also I want to say this; that while we are going through this, there happens to be a 70-year-old woman who called me who is Catholic and isn't for abortion, but she got a postcard at her home from a P.P., which I can only imagine who that is, letting us know how terrible this bill is and how it's-- we were lying to the-- to the women that are going through this. That I absolutely take offense to. If they want to spend their money and they want to stop this bill from happening, they are the ones that have to let these women know how important it is to have all their options made available to them. Now that's where you can get my dander up just a tad bit because, to me, to have to go out there and talk to people in my district about me carrying a bill that I care deeply about, you bet I find out from the Medical Association if they think it's OK. Why were they not at the committee hearing? Who wrote the letter? Who stamped the doctor's name on the letter? Did the board actually approve that letter? Did they? Find out, find out for yourselves. But I am going to defend them to the end when you



Floor Debate  
May 01, 2019

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have that many people-- do you know I even asked the NMA? I said, is Planned Parenthood a part of your association? I mean they have doctors there. They're the ones that don't want this bill. Are they a part of your association? No, he said, they're not. So if they aren't, please understand that what you're reading on the March 19 letter that was handed out to you, I don't believe was written by anyone close to the Nebraska Medical Association. So, again, I just rise in support, please support LB209 for the women and children in this state. You know, we talk about work force development. If you want to talk about some things, Senator Morfeld, I'd love to talk to you about how many babies are not here because they don't have a choice. They don't know that they can maybe reverse it. Think of how many employees we would have. Think of how many people would be on our tax rolls. We're-- we're a state that doesn't have enough people. That's why, another reason, we're in a property tax crunch. We don't have enough people.

FOLEY: One minute.

ALBRECHT: One minute? So that's, again, why we need to make certain that these women are aware of all their choices so we can continue to grow Nebraska, grow Nebraska with this bill. You have a right to know that you can-- you can absolutely decide to reverse this mifepristone pill and have a healthy baby. It's not going to be 100 percent, but I choose to say that the Delgado study is a good study. But others don't feel that it's scientific enough for them. But I do believe it. I have read the report. I have read the study. They may not choose to feel that it's OK, but I do. So who's-- we-- we have a responsibility and I hope that we will continue to dig into the facts about this bill. And to know that it is for a woman to have a second chance at choice. And she can choose--

FOLEY: That's time, Senator.

ALBRECHT: Thank you.

FOLEY: Thank you, Senator Albrecht. Senator Geist.

GEIST: Yes. Thank you, Mr. President. And I just want to take us back to what we're talking about and-- and that is that we're talking about giving a woman all the information that she needs. It simply directs a woman where to look for answers should she change her mind, plain and simple. I, too, have received letters from physicians in my district asking for this bill to be supported. And I don't know all of those physicians. I do know a few of them. I take that as an ethical response, not necessarily one that-- that's encased in religion, though it may be. I don't know that to be a fact or not. To me, that's irrelevant. It's just something I listen to. I have yet to hear from a physician in my district who has said this is junk science. I haven't heard from them. And if there are some in my district, I would invite them to please give me that information if

Floor Debate  
May 01, 2019

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that's what their perspective is. I do think that, as I've said on the mike before, I think using progesterone to support a risky pregnancy is common practice, it's been supported by decades and decades of positive results. And I would also say that if it is junk science or not based on fact, well, there's obviously a study going on. And maybe it happens that people finance a study based on junk science, but I would say that's not the norm. So if there is a scientific study going on looking at this, I would ask why if it's debunked and junk science. So to me, that it seems logical to think there must be some sort of suspicion that there's something going on here. Another thing I would like to address, because to me it was new information, and that is this whole topic, one, that an abortion, a chemical abortion, can be reversed. Now that doesn't mean it happens every time, but I did not know that information until we started the conversation looking at this bill a few months ago. For me, that was new information. Now, I am not looking to have children anymore and so I am not in the trenches on that issue, nor am I one that considers abortion for myself personally. So maybe that's why I don't know. But I was ignorant on this subject. So to the point where we think that physicians or the abortion provider is giving this information to young women, I would question that. Now, in news articles or on TV, a drug maker has to give all the litany of side effects that that drug may cause. And many surgical people tell you that this can be reversed by this and such deal, but is this information that's getting out? Is this information that's posted on the door? Is it information that comes with the abortion-- chemical abortion pill, the mifepristone? Does that-- is it told? Is this a story that needs to be told? I believe the answer is, yes, because this is not common knowledge. Since it's not, I believe that what we're trying to do is make it common knowledge.

FOLEY: One minute.

GEIST: Therefore, allow the young woman to make her own decision. And let her know, should she regret that decision, here's what you can do, look up this Web site, it's very innocuous. So I support this 100 percent. I think it makes sense. It's logical. It's simple. It's nonthreatening. This allows a young woman to have an abortion and it allows her to change-- have information should she change her mind. That does not mean that if she takes progesterone that she will not have-- be too late. There's tragedy even in the information. But I believe the information should be given. Thank you, Mr. President.

FOLEY: Thank you, Senator Geist. Senator La Grone.

La GRONE: Thank you, Mr. President. I just wanted to quickly bring us back to what the bill actually does. So the three things that it requires information be given on are, number one, that research indicates that mifepristone alone is not always effective in ending a pregnancy; second, there may still be a viable pregnancy after taking mifepristone; and then third, information to assist the mother in finding a medical professional who can help her continue the pregnancy after

Floor Debate  
May 01, 2019

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taking mifepristone. That is all factual, nonbiased information. That is all the bill requires. And with that, I'd yield the remainder of my time to Senator Slama.

FOLEY: Thank you, Senator La Grone. Senator Slama, 4:20.

SLAMA: Wow. Thank you, Senator La Grone. You actually just read exactly what I was going to read, so you saved me some time. I think Senator Geist summed it up excellently just now on the mike. This is a bill that provides women with invaluable information. And I really hope there's some women watching this debate right now who have learned that after taking the first pill in a medical-- medicated abortion, mifepristone, that it's not always effective in ending a pregnancy. That's something I didn't know before this debate. So I hope that at least a few women in Nebraska can add that knowledge to their toolbox. So I'd just like to reemphasize, since we're wrapping up for the day, the three sentences in this bill that are repeated over and over again are, "Research indicates that mifepristone is not always effective in ending a pregnancy. You may still have a viable pregnancy after taking mifepristone. If you change your mind and want to continue your pregnancy after taking mifepristone, information on finding immediate medical assistance is available on the Web site of the Department of Health and Human Services." All of these statements are backed by science. And I take issue with the assertion that, quote, if you support this you do not support science, end quote, when it has been medically proven time and time again that mifepristone alone is not 100 percent effective at ending a pregnancy. This is some critical information that women need to know when they're getting an abortion. They deserve to know this. They-- they shouldn't have to go on Google after making one of the most pivotal decisions of their lives and thinking maybe I screwed up. They shouldn't be stuck going to Google and trying to figure out if they can undo what they just did. They should have had this information before they started this process. Knowledge is power. This bill is not only pro-life but it's pro-woman. This is not a religiously motivated bill, as has been asserted earlier in debate. This is just about providing women with the information that it may be possible to save their pregnancy. It may be possible. This, this won't save the pregnancy 100 percent of the time, but there is a chance that they could save the pregnancy if they seek immediate medical attention. It doesn't automatically mean a progesterone pill. It could mean, as Senator Hunt brought up in an earlier debate on this bill, throwing up the mifepristone, some other medical treatments. This is all about giving women information. And I'd like to thank Senator Albrecht for her tireless work on this bill and today in fighting, not just today but earlier in the week when this came up, all of the false assertions that were made about this bill. She's been a champion for this bill and other pro-life efforts and I applaud her for bringing this bill and working with the Judiciary Committee to put together what I think is an excellent bill. Thank you, Mr. President.

FOLEY: Thank you, Senator Slama. Items for the record, please?

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

Floor Debate  
May 01, 2019

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ASSISTANT CLERK: Thank you, Mr. President. Your Committee on Enrollment and Review reports LB657A to Select File. Amendments to be printed: Senator Walz to LB570, Senator Wishart to LB209, Senator Wishart to LB610, Senator Wayne to LB657. In addition, I have a potential conflict of interest statement from Senator Wayne. And finally, Mr. President, Senator Bolz would move to adjourn until Thursday, May 2, 2019, at 9:00 a.m.

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