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Floor Debate  
April 30, 2019

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FOLEY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the sixty-eighth day of the One Hundred Sixth Legislature, First Session. Our chaplain for today is Pastor Carl Sirotzki of the Thabor Lutheran Church in Wausa, Nebraska, Senator Gragert's district. Please rise.

PASTOR SIROTZKI: (Prayer offered.)

FOLEY: Thank you, Pastor Sirotzki. I call to order the sixty-eighth day of the One Hundred Sixth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

CLERK: Mr. President, on page 14-- excuse me, on page 1235, line 11, insert, due to a high rate of unemployment combined with a high poverty rate. That's the only correction I have, Mr. President.

FOLEY: Thank you, sir. Are there any messages, reports, or announcements?

CLERK: I have one item, Mr. President. The Judiciary Committee, chaired by Senator Lathrop, reports LB519 to General File with committee amendments attached. That's all that I have.

FOLEY: Thank you, Mr. Clerk. (Doctor of the day and visitors introduced.) We'll now proceed to the agenda. Select File, Appropriations bills. LB641A. Mr. Clerk.

CLERK: Mr. President, with respect to LB641A, Senator Slama, I have no amendments to the bill.

FOLEY: Senator Slama for a motion.

SLAMA: Mr. President, I move that LB641A be advanced to E&R for engrossing.

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FOLEY: Members, you heard the motion to advance LB641A to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB641A advances. Proceeding to General File, 2019 Senator priority bills. Mr. Clerk.

CLERK: Mr. President, LB149 is a bill offered by Senator Quick. (Read title of LB149.) Introduced on January 11, referred to the General Affairs Committee, advanced to General File. I do have committee amendments as well as other amendments pending, Mr. President.

FOLEY: Thank you, Mr. Clerk. Senator Quick, you're recognized to open on LB149.

QUICK: Thank you, Mr. President, and good morning, colleagues. I'm introducing LB149 which is my personal priority bill. I've talked to many of you about this bill because it's really important to my community and my district, and it will have a positive impact on all of our communities. This bill had its beginnings last May when I met with a Grand Island school board member who asked me to meet to discuss about children vaping in our public schools and how we could address that. We had several meetings over the summer working on a bill that would meet our goals. The number one item was to raise the age for purchase and reduce the exposure and use of vaping products by our children. When we began researching this, we found that this isn't just happening in Grand Island, but it's happening all across our-- in communities all across our state and throughout the United States. This is an issue we, as the state legislators, need to address for the health, safety, and well-being of our children. First and foremost, we need to make it clear that nicotine is harmful for developing brains. It triggers parts of the brain associated with addiction and makes it more likely to succumb to addiction, or to more dangerous drugs in the future. Researchers agree that nicotine is harmful for developing brains, and most e-cigarettes contain nicotine, especially those most popular among youth. Late last year, the United States Surgeon General released a report stating that in 2018 more than 3.6 million youth in the U.S. used e-cigarettes. One in five high school students and one in 20 middle school students are using e-cigarettes. These numbers led the Surgeon General to declare e-cigarettes use among youth as an epidemic in the United States. The Surgeon General also reported that most e-cigarettes contain nicotine, and nicotine exposure during adolescence can impact learning, memory, attention, and can increase the risk for addiction to other drugs in the future. Nicotine exposure is harmful to the still developing human brain, and brains continue to develop until the age of around 25. LB149 is designed to address a problem our families and educators are grappling with. Children in our schools are becoming addicted to nicotine because of e-cigarette devices. While some adults, who are trying to quit smoking, use certain vapor devices to reduce their amount of nicotine over time, youth who use these products have generally not started smoking yet. Their first exposure to nicotine is through e-cigarettes, not traditional cigarettes. They often don't know that they contain nicotine, but because these devices are easier to use and hide than traditional cigarettes, they are consuming far more nicotine than if they were smoking traditional cigarettes. The U.S. Surgeon General recently declared youth vaping an epidemic and

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recommends increasing the age and adding products to indoor smoking bans. LB149 follows these recommendations to help solve this epidemic in our communities. LB149, as amended, and brought to the General Affairs Committee does four simple but important things to address the issue of our children's addiction to nicotine. First, LB149 defines vapor products and e-cigarette products as electronic nicotine delivery systems. This is important language that was suggested by the Attorney General's Office. This language allows our Attorney General to enforce our laws by including it in licensure. This also will allow us to capture future technologies and development in our definitions instead of having to come back and update definitions. This definition also ensures that we close potential loopholes and continue to receive funding for the Master Settlement Agreement, which goes into our Healthcare Cash Fund, which funds many of our important programs in our state. Second, LB149 requires that those who sell e-cigarette products, or ENDS devices, are licensed in the same way that tobacco retailers are. This ensures we can enforce our laws and hold retailers accountable. It is incredibly important to have this measure in place to make it easier to track stores that don't comply with regulations in place to prevent underage access to these products. Third, LB149 adds these electronic nicotine delivery systems to our Clean Indoor Air Act so they cannot be used in workplaces or other areas. The Surgeon General has called for indoor vape-free policies and adding vapor products to Nebraska's Clean Indoor Air Act is a logical step to combating underage vaping and e-cigarette use. The CDC has said that e-cigarette aerosol is not harmless water vapor and is not safe as clean air. It contains nicotine and can contain formaldehyde and other hard metals and cancer-causing agents. Allowing e-cigarettes in workplaces and other public places undermines the success of smoke-free laws by creating an environment that encourages smoking. We have to update our laws to reflect current forms of smoking. Adding vapor products to the Clean Indoor Air Act is another way we can discourage children and young people from taking up vaping. Finally, but importantly, LB149 would increase the age for all tobacco and e-cigarette products in order to keep them out of the reach of school-aged children. High school principals from Omaha Bryan, Burke, and Grand Island Central Catholic testified at our committee hearing. What we've heard from-- to what we've heard from around the country, 18 years old in high school or just out of high school will purchase these devices and sell them or give them to young children. Increasing the age will reduce the number of people who will start smoking and will literally save lives. It is important to treat traditional cigarettes and tobacco products and e-cigarettes the same. Kids who start vaping often transition to traditional cigarettes, putting them at risk for even more health issues. Most people who start smoking do so before the age of 18. I want to make it clear that this bill does not target adults who choose to use vapor products in order to quit smoking. The goal of this bill is to prevent youth from starting to smoke or vape. The risk for underage youth with developing brains is too great to ignore. By regulating e-cigarettes and by raising the age limit for both e-cigarette products and tobacco products, we hope to curb the availability of these devices to youth and reduce their appeal. I also just want to take a minute to thank all the stakeholders on this bill, and I'm proud of all of the important changes that we were able to incorporate. With that I would appreciate your support for LB149

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so we can address this public health crisis in our communities. Thank you. Thank you, Mr. President.

FOLEY: Thank you, Senator Quick. As the Clerk indicated, there are amendments from the General Affairs Committee. Senator Briese, as Chair of that committee, you're welcome to open the committee amendment.

BRIESE: Thank you, Mr. President, and good morning, colleagues. I rise to introduce AM901, the committee amendment to LB149. LB149 was heard before the committee on March 4. LB149 would make changes to tobacco, nicotine, and vapor products laws and increase the legal age for use of such products. AM901 was adopted to address some of the concerns brought about at the hearing from individuals, including the Attorney General's Office and to find a compromise while staying true to the intent of the bill which was to help reduce teen nicotine and vape use especially in schools. AM901 makes changes to the original language and accomplishes the following. It replaces vapor products language with electronic nicotine delivery language. It raises the legal age to smoke or use cigarettes, cigars, electronic nicotine delivery systems, alternative nicotine products, or tobacco in any form to 19 years of age. And I would note that there wasn't enough support in the committee to move it to General File with the green copy at 21 years of age. And so I told Senator Quick that and we essentially got his OK to move it out of committee at 19. Section 2 of the amendment changes the definition of cigarette to match the escrow and MSA definitions of cigarette for consistency purposes. Cigarette is defined as any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains any roll of tobacco wrapped in paper or in any substance not containing tobacco. Tobacco in any form that is functional in the product which because of its appearance, the type of tobacco used in the filter, or its packaging and labeling, is likely to be offered to or purchased by consumers as a cigarette. Any roll of tobacco wrapped in any substance containing tobacco which because of its appearance, the type of tobacco used in the filter, or its packaging and labeling is likely to be offered to or purchased by consumers as a cigarette. Section 2 also defines electronic nicotine delivery system. Those systems are defined as any product or device containing nicotine, tobacco, or tobacco derivatives that employ a heating element, power source, electronic circuit or other electrical, chemical, or mechanical means, regardless of shape or size, to simulate smoking by delivering nicotine, tobacco, or tobacco derivatives in vapor, fog, mist, gas, or aerosol to a person inhaling from the product or device. The amendment further details what electronic nicotine delivery systems include. Electronic nicotine delivery system language is added to ensure that all intended products are covered by LB149 and to anticipate soon-to-arrive products to the market and avoid any inconsistencies or issues with Nebraska's requirements under the Tobacco Master Settlement Agreement. And I note that the FDA and several other states have incorporated the same definition of electronic nicotine delivery systems. Sections 3 through 9, 11, 12 and 16 make the following adjustments throughout the bill necessary to update and harmonize the provisions by

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removing vapor products language, inputting electronic nicotine delivery systems language, increasing the legal age for use of such products to 19 years of age. Section 10 updates the legislative intent provision providing that the Legislature finds incumbent health risks associated with using tobacco products by replacing smoking products language with using tobacco products language and replaces the term "minors" with the term of "young people" in reference to the legislative finding that the growing number of young people who start using tobacco products is staggering and even more abhorrent are the ages at which such use begins. Section 13 adds Section 15 of the act to the Nebraska Clean Indoor Air Act. Section 14 includes in the definitions section for the Clean Indoor Air Act the definitions found in Section 15 of this act. Section 15 specifies that electronic nicotine delivery system has the same meaning as in Section 28-1418.01. This provides for on operative date of January 1, 2020. Again, this bill was brought to help address and combat the issue of teen and underage use of tobacco, nicotine and vapor products, especially in our schools. The committee amendment, AM901, seeks to accomplish this while addressing concerns brought about during the hearing and discussions, including those of the Attorney General's Office. AM901 acts as a white copy amendment and would replace the entire bill. Thank you, Mr. President.

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

CLERK: Mr. President, Senator Friesen would move to amend the committee amendments with AM1478.

FOLEY: Senator Friesen, you're recognized to open on AM1478.

FRIESEN: Thank you, Mr. President. AM1478 is a very simple amendment. It amends the committee amendment to change the age for using tobacco and vaping products from 19 years of age to 21 years of age. This was brought to me by a school in my legislative district, an effort to keep tobacco and vaping products out of schools, since some schools have students in attendance that are 19 years old and older. And I encourage you to support AM1478. And as we look at the age of young people, and we've had many discussions in this body about when is it appropriate to either hold public office or some of the other things, and young people's minds are easily moldable at that age yet, and I think this is just a very simple step that maybe gives them a couple more years to mature and decide whether or not they want to smoke. And when you look at the industry and what they've done in the past, it is still a very addictive product. You know, when we were in-- my age when I was in college, it was a cool thing to sit out in the hallway and smoke whenever there was a break, and you did it because there was nothing else to do and you're watching the peer pressure. But when you look back, some of us were able to quit and some were not. And some of the health issues that they experienced were not worth it. This is a

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product that everyone knows is not good for you. It is addictive, and I just don't see that the risk is worth the buzz at the time. Thank you, Mr. President.

FOLEY: Thank you, Senator Friesen. Debate is now open on LB149, the committee amendment, and the amendment to the committee amendment. Senator Blood.

BLOOD: Thank you, Mr. President. As of now, I rise in opposition to both the amendments and the bill. I have spoke to Senator Quick about this, and I'm probably going to have a few questions for him. I think we can do better than how this bill ended. We have some issues, or I have some issues on how the bill is written. Senator Quick, I would ask that he yield to some questions.

FOLEY: Senator Quick, would you yield, please?

QUICK: Yes.

BLOOD: Senator Quick, how old do you have to be to be drafted into the military?

QUICK: Well, I don't-- do they still have the draft? So 18.

BLOOD: 18. OK. I'm going to ask you some questions because I want to get some of this on record. So one of the concerns I have is that the way that it's written, the Indoor Clean Air Act is very narrowly defined, and I think it still leaves the door open to vaping with things like caffeine and other foreign substances, such as natural testosterone or marijuana, but then when you add the electronic delivery nicotine system it really makes it more narrow. What would be your response to that?

QUICK: Well, in my opinion, I think that when you define the device that you can use to vape these products in, that it's a nicotine delivery system, but all those products would use that same system. So I think by having that in there, children aren't going to be able to buy those products until the age of 21, if we can pass that language.

BLOOD: And then how do you see enforcement on this? How would you enforce this?

QUICK: Well, it would be the same as what it is for tobacco right now. It would fall under that.

BLOOD: So, well, is it the same? How do you test for nicotine?

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QUICK: What's that?

BLOOD: How would you test for nicotine? Because you're putting the responsibilities on the municipalities on this. So with a cigarette, right, you can visually see what it is, but with these delivery systems, how will law enforcement know that it's nicotine?

QUICK: Well, I think all these children that are vaping anything will have to be-- they can't possess that device for one thing, so they shouldn't be in possession of any of those devices.

BLOOD: So, one of the questions that I have is, I notice that South Carolina did a law where if you're 18 and under that you can't go into a vape shop without an adult. Was there a reason that we didn't try and gear more towards things that were more enforceable as opposed to what we have? And I want to say that I support what you're trying to do. I just think we need to find a better way of doing it, so I'm certainly not here to tell you that I think what you're doing is wrong.

QUICK: So that-- was that a question?

BLOOD: That was a question. So why didn't we go for something more like that?

QUICK: Because that wasn't one of the things that come up over the summer that we talked about. When we met with the school board members and the school administration, we were just trying to address-- we talked about anything from banning flavors to raising the age. We wanted to go for 21. I mean, that's one of the things that the school district wanted to try to get that age separation, but that wasn't one of the things that we discussed, and probably because we didn't-- it was just us talking.

BLOOD: So can you tell me, Senator Quick, how many of the public health industry organizations that we have in Nebraska came to the table on this and helped craft this bill?

QUICK: Well, we had the Cancer Society that we talked to later in the process, because like I say, over the summer it was just basically me and the school board members and the school administration. But then later on we talked to the Attorney General; we talked to the Cancer Society. We actually even talked to tobacco and JUUL came to visit my office as well after I introduced the bill. So one of the things that when we met with the Attorney General, most of his language is probably what they're opposed to is what I'm guessing.

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BLOOD: And so you brought up one of the other issues that I have is that I've been researching the heck out of this because--

FOLEY: One minute.

BLOOD: --I agree there's something we can do. But my research has shown that the industry, the tobacco industry truly wants us to focus only on the nicotine. And I kind of feel like they're doing a gotcha where they've got all these states focusing on the nicotine part of it, and then because of that we're not addressing the other issues that are involved. So I appreciate your time. I may have more questions for you later, Senator Quick. And again, my hope is that we can just get a better bill. Thank you. Thank you, Mr. President.

FOLEY: Thank you, Senator Blood and Senator Quick. Senator Quick, you're next in the queue.

QUICK: Thank you, Mr. President. I want to thank the General Affairs Committee and Senator Briese for their work on this bill, and I also want to thank Senator Friesen for bringing the amendment to take it back to 21. As I've stated, one of the things that we really worked on that we wanted to do was get that age separation. It was really important for us when we met over the summer. Really what we were working on was kids getting addicted to nicotine in our school systems because that seems to be the biggest problem that we're facing right now. Now, I do realize that kids can smoke other things in those products, and-- but I think some of that is addressed with the fact that they-- that the nicotine delivery system is the same system that these kids would use to vape other products. So if they can't buy that vaping device, I think that addresses a lot of the concerns by maybe from some of the opposition to this bill. I think what we found is, is that those children that are using those devices are using it mainly right now in the school systems to get that buzz off of the nicotine. They see it as a way that it's cool; other kids are doing it. And then there's also the flavors and so it doesn't taste as bad. They can actually hide it from the teacher by using the JUUL device, and then they pass it off to other kids. I mean, it's-- like the Attorney General said, it's an epidemic across our country. I know there are other states that are actually looking to move the age limit to 21 and have already done that. I think the United States, on the federal side, they're looking at also moving it to 21. So I just wanted to thank Senator Friesen for bringing that amendment. And I will be back on the mike to talk about some other issues, the importance-- well, I guess I can talk about it right now, the importance of moving the age to 21. The majority of smokers begin smoking before the age of 18, and I think that's something that's been proven over time. I think when tobacco first, when they wanted to regulate tobacco, that was one of the things they made it-- they did make it 18. But what we're seeing now is that these 18-year-old kids with the vaping products are actually able to purchase the product and sell it to the younger kids. So the vaping has become more of an epidemic than even the tobacco products at that time. Raising the minimum age of a legal



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purchase will prevent young adults from beginning to use tobacco products. The impact of raising the minimum age of 21 is substantially higher than raising it to 19. That is, more young adults will have access to these products if age were raised to 21 rather than if it were raised simply to 19. I know Senator Blood also brought up the fact that if you're 18 and you can serve in the military, that you should be able to maybe use tobacco products or vaping products. I think the issue that we're facing is not people in the military, it's our children, younger children. These are children in middle school and high school. I've even talked to a grade schoolteacher in Grand Island who said that grade school kids are even starting to vape now. And I think one of the biggest problems, too, with this, is that there's not enough education out there for some of these-- for kids and for adults to understand that there's more than just nicotine in some of these products. There are some other chemicals in there. And when I come back and speak the next time, I'll talk about some of those chemicals that are in these products. And with that, thank you, Mr. President.

FOLEY: Thank you, Senator Quick. Senator Chambers.

CHAMBERS: Thank you. Mr. President and members of the Legislature, I support the bill. I support the amendment. I think it's a very good move that is being taken. This, in my opinion, is a public safety issue. Young people are a part of the public, and this is not really one of those in loco parentis types of matters where the state stands in place of the parent. There has been evidence gathered to show the harm that is done to a given category of young people. So I think the regulation in this way is feasible, legal, and very wise. I have to ask, if I may, and if he'll respond, a question to Senator Briese.

FOLEY: Senator Briese, would you yield, please?

BRIESE: Yes.

CHAMBERS: First of all, Senator Briese, I didn't realize that your memory was so good. I heard your presentation. How did you remember all of that?

BRIESE: I jot down notes and I utilize my notes to do that.

CHAMBERS: But you remembered to look at your notes.

BRIESE: Sure.

CHAMBERS: Then I still stick by that, you have a very good memory.

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BRIESE: Thank you.

CHAMBERS: Thank you, Mr. President. Thank you, Senator Briese.

FOLEY: Thank you, Senator Chambers. Senator Briese.

BRIESE: Thank you, Mr. President. There was a few concerns with this bill obviously, and one of the concerns brought up by AM1478 is the age, but I believe the objective-- here I thought all along the objective of this bill was to help schools keep vaping products out of their buildings, and thereby reduce the use of these products by young folks. You know, I'm generally of the opinion that we should not take it upon ourselves to try to curtail behavior that we think is unwise or unhealthy to the extent it only impacts the user or the individuals that undertake that behavior, and I think that was the sentiment of our committee. And that's why there weren't the votes to get this out as presented in the green copy at 21. Instead we dropped it to 19, had the votes. You know, there aren't many 19-years-olds in our school systems, and I think that limiting the use of these products to those age 19 and over really narrowly tailors this bill to accomplish the bill's objective without overreach. And I would suggest that's why the committee voted it out at 19. You know, if we're going to talk about trying to curtail smoking, heck, we had a testifier suggest that, well, he spoke of the limbic system responsible for their, he said, rewards of risk-taking behavior. I didn't understand it completely, but his point was that the closer we get to 24 and 25 years old, the more apt we're able to really curtail behavior. And I don't know about you, but I'm not going to raise this thing to 24, 25 years old. Instead, I think it's really incumbent on us to tailor things like this fairly closely to what is the real objective, and that's keeping it out of our schools. And although I can't speak for the rest of the committee, I believe that's why we went with 19 instead of 21. Personally, I'm still kind of up in the air on this whole thing and I'm interested in listening to the debate going forward. Thank you, Mr. President.

FOLEY: Thank you, Senator Briese. Senator Wayne.

WAYNE: Thank you, colleagues. I do sit on General Affairs, but I just want to mention this, process matters. We are built in this body off of the more trust we build with each other, the better we can get things done. And what concerns me and why I rose on this amendment instead of the amendment after this, which is mine, is because I heard Senator Quick thank the committee and also thank Senator Friesen. The issue with that is, if I make an agreement with the Chairman, if I make an agreement with members on the committee, which I will talk more about if we get to my amendment, then any bill or amendment that comes to the floor that isn't a part of that agreement has got to be hostile. You have to stand up and say this a hostile amendment, although, I may like 21, I made an agreement to get this out of committee with those on the committee at 19. If that's the case, colleagues, we are going to have multiple

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agreements being made in multiple committees, and another senator introducing an amendment to take it right back to the original bill, circumventing our entire committee process. And if we're going to walk down that path, we are walking down a very deadly point in this body where we can never trust our committees again. Because what's the point of having a committee come to an agreement and work with the introducer of the bill to kick it out at a certain age, then to have another amendment on the floor, and the bill introducer not treat that as hostile. That's a problem for me. I stood on the floor, and my good friend, Senator Groene, and I have spent two days yelling at each other over what I perceive was misinterpretation. I can't do that for two days and then stand here and be silent on this when we're going around the committee process and going around the Chairman who spent time negotiating this deal to, one, get out of committee. And I think that with my amendment further reflects what the bill introducer also agreed to with at least three, if not four, members on the committee, that we would remove it from the Clean Indoor Air Act. And we'll talk about that when we get to my committee. But I just think for the sanctity of the body, although any amendment and any bill can be amended on the floor at any given time, and it's a straight up and down vote, I agree with that. At any point-- I remember reading historically where Senator Chambers, they were talking about trash and disposable waste, amended it to include Omaha not have any payment for trash. So, I get that, but I also will say there wasn't probably an agreement not to do that. What I'm saying is, we can amend any time we want on the floor, and that's your right. But as a bill introducer, if you have an agreement with certain people on this body, particularly the Chairman of the committee in which that came out of, I think we need to be careful when the Chairman doesn't know or sees another amendment that disagrees what the committee put out. It will still be a straight up or down vote, but I do just want to mention that on the record, this came out a certain way because there was agreement between the introducer and many members on the committee. Thank you, Mr. President.

FOLEY: Thank you, Senator Wayne. Senator Blood.

BLOOD: Thank you, Mr. President. Fellow senators, friends all, I still stand against both the amendments and the bill, and it is not because I don't care about our children. But, again, there's specific issues that are sticking in my craw. And so I want to talk a little bit about one of the things that isn't addressed. One of the things that isn't addressed is how these products are marketed to the children. I helped a family member move to Omaha about two weeks ago and I was in their kitchen and there was a small box and it talked about, I think it was a cheesecake, and there was a picture of somebody in a kitchen and I looked around for ingredients. I thought maybe it was some sort of essential oil to make cheesecake with, some kind of flavoring like vanilla, and no matter what I did, there was nothing on the outside of that box that told me that it was vaping juice. And I find that concerning and I'm wondering if that's something that we also need to address is that, you know, who are we marketing to? You know, you go back to the years of Joe Camel, who was obviously the marketing company trying to get to our youth, and it

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worked. So I do support what Senator Quick's mission is with this bill. But what I don't support is the wonky way that it's written. And it would be my hope that if indeed Senator Quick's bill does pass through General, that he meets one-on-one with all of our health institutions, all of our health providers here in Nebraska, because I think they, too, have issues with how the bill is written. We're all smart individuals. That's why we're here on the floor. And you can do research for two to three minutes and find that this is a ploy by the tobacco companies. They're coming into states and going, we absolutely support age 21 and we support you putting additional regulation on vaping products. But they're narrowing it just down to the nicotine. So I refuse to give in to the big industry and be told that I need to look in this lane when the lane is much bigger. And I encourage you guys to do your research as well. We have this feel-good bill. We have somewhere we want to go, which is protect our children, and those are very good things. But don't you think it's unusual that tobacco is coming in in such full support on these bills? Is it really for just cause that they support this because they want to protect our youth, or are they trying to get us to look the other direction while they do something bigger and better that makes them a lot of money? Think about that. We can do better. You can still be in favor of the children and want change in this bill, right, Senator Lowe? This one time we're in favor of the children, all right? And I think that we're not being good-- I know that we're not being good policymakers if we can't come to terms and make this a better bill. So I think sometimes we're in such a hurry to push the good cause through that we forget that the policy has to be written better. And so, now we have Senator Wayne's amendment. We have Senator Friesen's amendment. We have the General Affairs amendment. And by the way, I sit on that committee, and it was really hard for me, because again, at that time I thought the bill was kind of wonky. Let's just do better. If indeed Senator Quick has the votes to move this through, we've got to make this a better bill or when it does come on Select, unfortunately, my friend, I will filibuster it, or extend the debate, or however you want to put it, because I think we can't push this policy through until we correct it. With that, I would give any time I might have left to Senator Quick.

FOLEY: Thank you, Senator Blood. Senator Quick, you've been yielded 1:00.

QUICK: OK. Thank you, Senator Blood. I'll just take a minute just to address Senator Wayne's comments. So he was talking about circumventing the process, and I don't mean to call anybody out, but we've had issues where we've pulled bills from committees and senators have voted. So we more or less circumvented the committee process and pulled bills from committee to be heard on the floor. And so, I would say that it's not a fair statement for him to make the comments that he did. My original bill was for 21. I did talk to Senator Briese. You know there were some issues with trying to get it out at 21. I thought I had the votes, so I did talk to him and said, then can we vote at 19 to bring it out. I think Senator Briese always understood that in my heart I really wanted to get that age at 21 to get that age to work.

FOLEY: It's time, Senator, but you're next in the queue, you may continue.

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QUICK: OK. Thank you, Mr. President. So, now that I'm done talking about that, some of the things that I want to make sure that I get out there is the fact that we worked with the Attorney General on the language. And I think that's some of the objection to the bill from what I'm hearing is that it doesn't define enough products. Well, the problem with-- you cannot define every product under the sun, so we went for the nicotine delivery system, which is mainly the vaping device and any products that would contain nicotine. Now, if an underage-- or if a child goes in to purchase, and we have the age at 21, they're not going to be able to buy the vaping device itself, and that's what they can use any of these products in. So if they can't purchase a device, then they're not going to be able to vape any other products. So I think it covers most of the concerns that maybe Senator Blood would have. Now, as far as-- you know, my whole process has been that we get this to 21 to get it out of the hands-- to get that age separation to address the concerns we're having in our schools. There are so many kids that are using these products, and I think I addressed that earlier that for whatever reason, whether they think it's cool or they think it's-- they get that little hit off of the nicotine, I talked to one-- they're grandparents in Grand Island, and their granddaughter came to them and talked about the fact that their granddaughter came to them and told them that she knew of children, she knew of some of her classmates that were going through three JUUL pods a day. That's the equivalent of three packs of cigarettes. That's a lot of nicotine. I also talked to another individual who coaches volleyball. She said that they had one of their players who was addicted to nicotine, and she can't get off the nicotine. That shouldn't happen when you're in high school. And it's all because they think vaping is harmless. They think vaping-- that anything they get from vaping is harmless. One of the things I want to talk about is that the CDC has stated that e-cigarette aerosol is not harmless water vapor, and is not as safe as clean air. It contains nicotine and contained formaldehyde and metals like nickel and lead, ultra-fine particles that can damage lungs and other cancer-causing agents like alkaline. The United States Surgeon General called on states and localities to include e-cigarettes and smoke-free policies in order to protect the public from both secondhand smoke and secondhand aerosol. So these products do contain many other chemicals besides nicotine, and I understand Senator Blood's concerns with some of the other things that they can vape in these devices, but I think this bill should cover those concerns by saying that they can't purchase the device itself. And, you know, like I say, I've worked on this bill since last May, working with the school board members, working with-- I went to-- I go to some of the tobacco-free meetings in Grand Island and talk to them about some of these devices, and they've all been supportive of LB149. They all understand that we need to address this issue. And I think it should be put upon this Legislature to make that decision to add this not only vaping products, but tobacco products that would take this to 21. And I think this bill with the General Affairs--

FOLEY: One minute.

QUICK: --Committee would address those issues. I think Senator Friesen addresses my concern with making sure we get that age separation. It actually benefits the retailers on-- for the age

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separation because the drivers license has changed from a vertical driver's license to a horizontal. When you're classified as an adult, you get that-- well, I guess it'd be for alcohol purchases, it would just change that drivers license so you can actually-- it would make it easier for retailers. They wouldn't have to be checking dates on the drivers licenses. So with that, thank you, Mr. President.

FOLEY: Thank you, Senator Quick. Senator Lowe.

LOWE: Thank you, Lieutenant Governor. You know, I was probably the surprise yes vote to get this out of the committee. That's because we agreed to take it down to 19 from 21. By moving it up to 21, I would be a no vote on this. I was really-- I really questioned my thought on this bill because I don't agree with the kids doing things like smoking or drinking when they're in high school, but they do do that. They're all looking for something to do, maybe that might be a little bit wrong. So, I'm really questioning myself on whether or not to vote for or against this bill because I think I'd rather have them smoking something like the vapor or inhaling that, that has a very low, low content of nicotine, than have them drinking or something that might be much worse. I don't agree with the JUUL that has a very high content of nicotine in it, but we're not addressing that at this moment. You know, when I look at all the other things that shouldn't be in school right now, I don't believe these vaping devices are allowed in school at this time. I don't believe cigarettes are allowed in school at this time or chewing tobacco. I don't believe alcohol is allowed in school at this time, but I believe that they're all there. We'd be a fool to say that kids don't have chew in their locker, or a cigarette where they can run outside and do something. We passed laws like this before, but youth find a way around it. I believe if we outlawed these vaping devices that they can't go buy them, they will make them. I mean, all you need is something to heat the water vapor up, something to hold the nicotine, and they will make their own devices. So I think we really need to take a look at this and the way we're going. With that, I think I'd like to yield my time to Senator Wayne if he'd like to have it.

FOLEY: Thank you, Senator Lowe. Senator Wayne, 2:00 if you care to use it. He waives it off. (Visitors introduced.) Continuing discussion. Senator Blood.

BLOOD: Thank you, Mr. Speaker. Fellow senators, friends all, I still stand opposed to both amendments and the bill, and I really want you to be listening to today's debate and not have your mind made up. I encourage you, if you have not done so already, to bring the bill up and read the bill. Do a little Googling. See what tobacco industry is doing right now, and let's just not be fooled when it comes to this bill. So I know that we all agree that we want to protect the children of Nebraska. That is something that we stand firm on, and I agree as well. But I don't think this bill is ready for prime time, and I didn't when I was in committee. I had issues with it in committee and Senator Quick, among many of you, is my dear friend, and it was his priority

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bill, and I felt that he might fix it before it hit the floor. And I don't feel that we're there yet. We talk about the vaping. I think there's some misinformation that's been said, not by Senator Quick. You know, a lot of the flavoring compounds themselves, they actually kill cells in children and adults. There's three flavorings that have been found to cause very specific issues when it comes to the cells in our body, and I think that's kind of a scary thing. And I don't think that information is getting out, and it's not getting out because the tobacco industry doesn't want it out. Senator Quick talked about the high levels of nickel, and there's also high levels of chromium. Things that cause lung cancer and neurological deficits, lung and nasal-- lung, nasal, and sinus cancer, respiratory tract irritation. So a lot of the same things that we're seeing with smoking. But how are municipalities supposed to be enforcing this, and what kind of cost is that going to bring for municipalities? That's a big concern for me. How can we ask people to go to war at 18, but we say they can't smoke or vape, regardless of how bad it's for them. Are we saying that we are less concerned about people being blown up in battle than we are about them vaping? I can't get my brain wrapped around that right now, and I'm not sure where I'm at on that point. I do like what South Carolina did that if you were 18 years of age and younger, you can't go into a vape shop without an adult. Right? That to me makes sense. So the concerns I have is, can we do better? The other concern I have, and this is kind of a selfish concern because our budget is kind of in a mess, is excise taxes. I'm doing some quick math and I'm thinking 1 million to 1.4 million is what we're going to lose if we raise it to age 21. Now we can say, well, Senator Blood, isn't the health of these people more important? Well, the health of these people is more important, but sometimes I think that we try and regulate morality from things like virtual gaming, especially when it comes to sports-- huh, Senator Briese? We'll never see eye to eye on that one --to what we do sometimes with alcohol. Sometimes what we do with pornography. What is our gray area? And I'm just afraid that we're so busy trying to regulate morality and put our own personal thoughts forward that we're not looking at what this bill is really doing. And what this bill is doing is creating secondary hurdles, especially for municipalities. It's narrowly defining things, which I think is going to allow the industry to go crazy, and not crazy in favor, but crazy behind our backs. And we aren't really even talking about what the federal government is doing right now. And the federal government has a big push--

FOLEY: One minute.

BLOOD: --when it comes to vaping. And so do we need to regulate the state? And lastly, the schools already have laws in place, policy in place that prevents kids from doing this. Raising the age isn't going to change any of that. So again, I want everybody to be thinking about this. Please do your research. Don't just decide how you're going to vote without really listening to what's going on. Thank you, Mr. Speaker, or President, I apologize.

FOLEY: Thank you, Senator Blood. Senator Chambers.

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CHAMBERS: Thank you, Mr. President. Members of the Legislature, I have in my left hand the Journal of the Nebraska Legislature. It is opened to page 664, and that is the page from which I will read, and I'm not-- this includes everybody in the Legislature. Albrecht, Arch, Blood, Bolz, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Clements, Crawford, DeBoer, Dorn, Erdman, Friesen, Geist, Gragert, Groene, Halloran, Hansen B., Hansen M., Hilgers, Hilkemann, Howard, Hughes, Hunt, Kolowski, Kolterman, Lathrop, La Grone, Lindstrom, Linehan, Lowe, McCollister, McDonnell, Morfeld, Moser, Murman, Pansing Brooks, Quick, Scheer, Slama, Stinner, Vargas, Williams, Walz, and Wayne comes after Walz, Williams, Wishart. You're welcome. You got your pink slip today, which accompanies that voucher or whatever it is they call it, which when you sign you can get your expenses. Sometimes we're a little forgetful and I like to remind us of these essential things. And the reason I'm being a little facetious this morning, this is a policy discussion. And on issues where a policy is involved, there can be and usually will be honest differences of opinion. Sometimes a person may be opposed to a particular proposition if it's a prohibition against a certain kind of conduct on the basis that enforcement may be difficult. The only law I'm aware of that every creature who is a part of the animal kingdom must obey, willingly or not, that is the law that every one of these living creatures shall and must die. Anything else may have holes in it which will allow some people to escape. When a law is passed, it has to be something directed at the generality of people. There will always be somebody who can find a way around a law. What has to be done, in my opinion, is for the lawmakers to consider whether or not an activity that is to be prohibited is, one, which if not prohibited, will cause substantial harm to a segment of the population, if not all of the population. To give an example, let's say you have a law that says, it is a crime to steal your neighbor's turkeys, and everybody in that community raises the same kind of turkeys. So a person may say, we shouldn't have a law like that because the idea of proving which turkey is yours is virtually impossible. There are two distinct matters involved here whether the conduct ought to be prohibited. Stealing somebody's turkeys should be prohibited. The matter of proof is entirely separate.

FOLEY: One minute.

CHAMBERS: There are general laws and requirements relative to how you prove a fact in order to establish that a crime was committed. So, it's against the law to steal your neighbor's turkeys, even if it's difficult to prove that the turkeys you say are yours, would be difficult. In this instance, I think the law that's being proposed is good. I believe the amendment is good. I'm going to support both, and, as yet, I haven't heard anything that would persuade me to take a position to the contrary. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Albrecht.



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ALBRECHT: Thank you, President Foley. I rise in support of LB149. I signed on to this bill early on, and it's interesting how things unfold as they go on through the system, but-- you know, and Carol-- Senator Blood, sorry, I appreciate her bringing to our attention this age because to me, I don't want our children exposed to nicotine any sooner than they need to be. My other concern is that if we remember Trooper Bell that used to be on the floor with us here, he's now in the schools, and, you know, we had a conversation, and he said it is bad. And we don't know what's inside that electronic vaping device. Is it just tobacco or is it nicotine or is it something more? I would-- I'm still listening, because these other two amendments-- I've never bought a pack of cigarettes, didn't-- had to go outside the glass and ask how old do you have to be to even purchase one, a pack of cigarettes. So if it's 18 now, you know, maybe we do need to talk about whether these-- whoever is buying these vaping devices for the children need to-- it's a third-degree misdemeanor, I understand, if you provide that to a young person. But when you're in the schools, and you don't want them to have them, it's like, you know, put your vaping devices away along with your cell phones so that the teachers can teach you something. But I am very much concerned about early exposure for our youth. When it comes to going to the service and being able to smoke and drink, that's completely a different subject, I think. I think what we're here to talk about is our youth and how they are able to get this, and what we can do to keep these things away from-- from the children. So that's my big deal. I would think, if you're talking about age, to make it simplified, it would be like if you have to be 21 to drink, wouldn't you have to be 21 to smoke? But that's been talked about, you know, when it comes to revenue for people, but it's just like taxing cigarettes. I mean, when you do that, you take them outside of our state, and they start buying somewhere else. I mean, if you're going to have an age, is it 19 or is it 21? I don't know. I'm still open to listening, and that's why we have General File. There's a lot that can happen between now and Select. But I'm looking at the committee statement, and five people, Arch, Brandt, Blood, Hunt, and Lowe allowed it to go out, but Senator Wayne was a no and Senator Moser was absent, and Senator Briese was present, not voting. So I do believe that we need to make certain that what we're doing here is for the right reasons and for the greater good of our public. And again, when I stand thinking about children getting hooked on nicotine and watching loved ones die because they did smoke all their life, it's not fun. So this is a serious bill that needs to have a lot of thought put into it before we all decide to vote and make certain that it's the right bill, so thank you.

FOLEY: Thank you, Senator Albrecht. Senator Hilgers.

HILGERS: Thank you, Mr. President. Good morning, colleagues. I rise in opposition to AM1478, and I think it's part of a broader conversation about, what is the age the majority-- at what age should we allow people to be able exercise their particular freedoms. And I think in general, the public policy of the state in general has been that the age of the majority is not 21. And we do have an exception for that particular age and that is in the case of alcohol and I think when you talk about alcohol and you talk about, you know, the prohibition and the unique

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history this country has had, I mean, there's no amendment to the United States Constitution dealing with smoking cigarettes, but with alcohol, we've had a unique history. There's a reason why we have 21. It's not just because of our challenges over the decades, but also because the federal government in the tie to transportation fund, federal transportation funding which is why many states have an age of 21 for consumption. So I agree with Senator Blood. If you can serve in the military, you should be able to smoke cigarettes. I think there are other exceptions to that non21, the age of majority rule and that's for where you have to-- you might need to be 35 to be President, for instance, or areas in which we think you need to have a certain age to be able to exercise certain professional judgment. I don't think that applies in the instance of smoking. So whether you think it's good or bad, or whether you think it's harmful or not, I think that's somewhat secondary. At the end of the day, we're talking about people's freedom and I think we need to draw a line, and I think the line that's worked well for the state over many years is not 21 for those types of things. So with that I would oppose AM1478. As for the underlying bill I know there are some other amendments and conversations from Senator Wayne and others, and so I will withhold comment until we get to that particular issue. But for the amendment in front of us, I will vote red on AM1478 and I'd yield the rest of my time to Senator Blood.

FOLEY: Thank you, Senator Hilgers. Senator Blood, you've been yielded 3:10.

BLOOD: Thank you, Mr. President, and thank you, Senator Hilgers. Again, I stand opposed to both the amendments and the bill as is. And Senator Albrecht was correct that I did vote it out of committee, as I said earlier, with the understanding that the wonky stuff was going to be fixed before it hit the floor, and that's not where we ended up at. And so, unfortunately, now I stand here opposed. And shame on me for voting it out of committee, but I had good intentions since it was a priority bill that things would be corrected. So again, let's go back to some of the issues that we have. How is this supposed to be enforced? And you can't say the same way as cigarettes because we're talking about very different products. What is our goal with this bill if our goal is to keep it out of schools? Schools already have policies that don't allow this, right? They don't allow alcohol, they don't allow cigarettes, they don't allow vaping. So we think by making it harder, these things aren't going to happen. I'm not seeing that statistically when I look at other states and that's a concern for me. And are we creating an issue for the people who in schools who have to check for this? Because one of the reasons vaping is so prevalent and why vaping has increased is because of the size of the product, right? So cigarettes, pretty obvious when you have a cigarette, you're not going to be holding it under your shirt, right? It has smoke, it doesn't have steam. This is a very small product that many people say looks like a flash drive, depending what brand you buy. So is this going to change that? And I'm not sure that it's going to. And we can say, well, we want to make things as hard as we possibly can so the children aren't affected. And I get that. But I look at alcohol, I look at tobacco, I look at vaping, I look at pornography, and unfortunately, those things are readily available and easy for anybody to get should they

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want to get it. And so, where are we going to stop with this? If we can write it in a way that it's less narrow when it comes to the--

FOLEY: One minute.

BLOOD: --Clean Indoor Air Act, I might be more supportive. But again, too, I represent Offutt Air Force Base, and I'm hoping that Senator Brewer has something to say on this as well. And there are a lot of people concerned because they're willing to give their lives but we're going to disallow them the opportunity to vape if they choose to do so, to their bodies. Thank you, Mr. President.

FOLEY: Thank you, Senator Blood. Senator Friesen.

FRIESEN: Thank you, Mr. President. You know, one of the reasons-- there's numerous reasons for changing it to 21. One of them is the ability for store clerks to recognize the I.D. It doesn't take much to, when you get turned 21, you receive a driver's license that is horizontal. Up until then, you have one that's vertical. And so when you go into the store, you show your driver's license, they don't have to look at the date, they just look at your drivers license, they can tell immediately if you're 21 or you're younger. You know, we can make the argument about age of majority and everything else, but if we're talking about eating donuts or something like that and you can't do it until you're 18-- eh, they don't really hurt you. When you're talking about smoking, I don't think there's anybody can deny that smoking causes health risk. Maybe some people don't see it, but the majority of the evidence shows that there is damage from smoking. And what we're doing is we're letting young minds, whether they're vaping or doing whatever they do, it gets them hooked on nicotine, and that's what's in cigarettes, and there has definitely been damage done to people who smoke. And we're saying, OK, if you're 19 years old, you're old enough to go to war, you know, you're old enough to carry a gun, you're old enough to serve in the military, but nah, we don't really care about your health long term, go ahead and light up a cigarette. Just do your job, you can have your smokes. I think when they're overseas, I don't think there's any issue there whatsoever. If they can find cigarettes, they're going to smoke cigarettes. I don't think anybody is going to look at their I.D. Nobody is going to question whether they're 21 or not. But while they're serving here, and we're paying for their healthcare and we're going to continue to pay for their healthcare down the road, I don't know why we would encourage them to smoke cigarettes. At the very least, we can treat it like alcohol, which also has its issues, and let's make it 21. They'll be a little bit older, a little bit wiser. Not as wise as Senator Chambers yet at 80-some years old, but we'll get there eventually, but give them a chance. And I know as a young person, it's very easy to join in some of the vices because everyone else is doing it. And once you're hooked, you can't give it up. And I've talked to people who took that first puff of the cigarette, and they will tell you they knew they were hooked forever. That rush of adrenaline they

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got, that feeling they got, never went away, and they knew they were hooked. One time. So changing it to the age of 21, to me, is a very simple change. It's not a big change, but it's enough of a change that I think it warrants doing, and I do not see a reason why we would leave it at 19. Thank you, Mr. President.

FOLEY: Thank you, Senator Friesen. Senator Bostelman.

BOSTELMAN: Good morning. Thank you, Mr. President. I wonder if Senator Quick would yield to a question.

FOLEY: Senator Quick, will you yield, please?

QUICK: Yes, I will.

BOSTELMAN: There's a debate or discussion on the bill and the intent of the bill and why the bill is being broad a little bit, and I want to go back to that briefly with you, about what is-- you spoke about schools a little bit ago. Why is it-- what is your intent, or why is it that you brought this bill?

QUICK: My main objective is because, like I said, it come from a school board member in Grand Island, and it has addressed the issue of kids vaping in our schools, and I think that's, with raising the age, that's the part we can address by getting it out of the hands of our children. And we have a big problem with kids getting addicted to nicotine and we don't know the long-term healthcare effects also from some of the chemicals in the vaping products.

BOSTELMAN: OK. Thank you. So, we're really focusing on the vaping, the device, that type of thing that's affecting our children, the students in school, trying to remove that opportunity, if you will, from those, especially 18 and under in our schools, trying to help our schools to be able to manage that better within the school system itself, is that-- would that be accurate?

QUICK: That would be accurate, yes.

BOSTELMAN: OK. Thank you. And thank you, Senator Quick, I appreciate that. This is a step in the right direction. I do support LB149 and AM901. I'm not so sure that I support AM1478 at this point in time. I have been in the schools, talked to our superintendents and principals; in fact, I'm getting some e-mails from them now, talking about the importance of this bill, and the challenges they have in their school and part of it comes down to the device and understanding what they use. You can't-- in the JUUL, you can't-- you know, it's very hard for them to

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determine from a flash drive, a stick, to what the JUUL device is. They don't-- you know, it's so easily hid, it's so easily used. It's an issue from-- it's a significant issue for them, and they're having a hard time addressing that within the schools. So this goes a long ways, I think, in helping with that. And the thing is, is, I guess, a question I have is with Senator Briese if would yield to a question on devices.

FOLEY: Senator Briese, would you yield, please?

BRIESE: Yes.

BOSTELMAN: In your amendment, how does this address the device itself?

BRIESE: Well, this language is essentially the same language that the FDA uses and several other states use. And device is defined fairly specifically here as talking about the system itself, components of the system. And again, this language makes it-- or prohibits the use of this device by the underage folks, providing this device to underage folks, acquiring this device by underage folks through misrepresentation, and again, device is fairly, fairly broadly defined. And so the device here is the key, and the definition of device, I would say, is the key.

BOSTELMAN: Thank you, Senator Briese, and I agree. And that's what I'm hearing from, I think, some of my school officials is that that device language is key in this bill, one of the key parts in this bill because it is so easy for students to bring devices in, to vape, to JUUL, to dab. Whatever those things are in the school system now, they have a very difficult time in managing that, I guess you would say. And the importance of the bill is to have a strong policy from this body saying that those students, those schools, need to be able to keep those devices, need to be able to work together, to eliminate--

FOLEY: One minute.

BOSTELMAN: --the use of these products by our young people in the schools. It is very much so an issue that has and is in our schools. When I talk to our counselors, when I talk to juvenile justice folks, everybody that talks, this is a problem. I understand there's concern with cancer, tobacco, those type of things. To me that's a separate issue. We can deal with that separately. Let's deal with that in another bill, in another time. Let's look at what we're talking about here today. Students in school, high school, junior high, elementary school that have access to these products. JUUL themselves has come out and said, we're changing how we market and do things in the country, we're changing the age requirements as far as on-line purchases, we're changing how we do with-- what we do with flavors and that, so they've identified it as a problem. This is

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just a great step in the right direction and to helping us, and helping our schools, and helping our youth to not being addicted and not using these devices and these opportunities, even cigarettes or tobacco, until a certain age. Thank you, Mr. President.

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

GROENE: Thank you. When I first seen this bill and when I talked to my local public health people, the big concern, the new fad was this vaping and nicotine. But then right away in your mind, it goes nicotine, cigarettes, cancer, death. But then I got thinking about it. When I went off to college, I started a bad habit of smoking because I never had to study before, and it kept me at the books. But then, ten years later, I quit. I tried to quit. Couldn't quit. Went to the doctor. And you know the medicine he gave me to quit? It was nicotine. Nicotine is considered a medicine. Tar, and the other things in cigarettes is what causes the cancer, not nicotine. So I did a little research on nicotine. It's no more addictive than the addictions we all have, caffeine, sugar is the bad one. Sugar kills more people than-- than any of the other ones do, except for alcohol. But nicotine has-- causes no health effects. None that they can find. No cause of cancer. Oh, it has health effects, just like too much sugar does, it makes you sleepy, have to eat too much pumpkin pie at Thanksgiving, but nicotine itself is not a harmful chemical. So, we're all young once, and we look for our peer groups, and what are we going to do? Do we go hang with the guys who go out and buy alcohol? Do we hang with the kids who smoke pot? Or do we want an alternative to tell those other two groups, no, I'm going to go vape. I got a group of guys that go down to the local vaping store and we sit around and we vape. They're not the athletes or the best students, but they're looking for a group. So last Saturday I went around North Platte and stopped in two of the stores there. They were run by-- one was run by a young man and his mother, another one was by a young entrepreneur, and I asked what kind of kids-- people do you get in here? They said, oh, they're just average folks, more than half of them are folks who are trying to quit smoking. The younger ones are kids just wanting to hang together. I said, do they get violent? Do they get drunk? Do they go out and drive and crash? No, they're good kids, younger people. So I'm sitting here thinking, are we confusing tar and the other cancer-causing ingredients of cigarettes with an unharmed addictive substance of nicotine that's no more addictive than caffeine or sugar? Now, if these kids-- I didn't hear from any of the school people that they catch a young person vaping that all of a sudden they're acting up in school, they're acting strange, they're failing in their grades, they're not showing up for school the next day. And we are a free society, and we're all addicted to something. Either caffeine --if you give up sugar, people, which my brother who is a doctor keeps preaching me, I will live a lot longer. I'll never forget the doctor when he gave me that Nicorette gum, and I went in and I was supposed to chew four tabs a day. I was a three-pack-a-day smoker because you know my personality. And I wasn't four tabs a day, I was chewing more, like 24. And I said, is this going to harm me? He said, Mike, nobody

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has ever died of cancer because they had too much nicotine. Nobody has overdosed on Nicorette gum. He said, chew as many as you have to to quit smoking, and I quit smoking.

FOLEY: One minute.

GROENE: So where do I stand on this? We have a couple of storefronts in North Platte that now are filled with young people who have an adult in the room watching over them that are not on a dirt road drinking alcohol with the wrong group or out smoking pot in somebody's basement, they've found a group of people that they can hang with and tell the other ones, no, I don't do that, I don't smoke, I don't take drugs, I vape. There's no harm in nicotine as a substance, except it's addictive, just like a lot of substances in our life. So anyway, I stand in opposition to LB149. Originally, I was for it, but I've got to face the facts. Nicotine ain't harmful, tar is. Thank you.

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

LA GRONE: Thank you, Mr. President. I rise in opposition to AM1478. I do think there is a conflict here between something that we all-- that a lot of us can agree is a good goal to achieve, which is keeping vaping out of our schools, and then the other value that we have of personal freedom. And we can-- this is really stark for me today. My nephew, Jackson, is actually here on his fourth grade tour today so that really brings home for me the need to take these products out of our schools. But I think that can be achieved without raising the age all the way to 21. And that's something we can get more into on Senator Wayne's amendment when we get to it. But I think Senator Blood was absolutely correct when she talked about how if you are able to serve in the military and fight for your country, you should be able to make the choice of whether or not this is something that you are going to participate in or that it's something that you feel is-- that you want to do. So with that, I would encourage your red vote on AM1478 and I look forward to the discussion on Senator Wayne's subsequent amendment, and I would yield the remainder of my time to Senator Wayne.

FOLEY: Thank you, Senator La Grone. Senator Wayne, 3:45.

WAYNE: Thank you, Mr. President. Thank you, Senator La Grone. I won't take up all this time. I think we need to get to a vote on this issue. I don't know if this is turning into an extended debate or what. I just want to reiterate that this bill came out of committee at 19. I think there was an additional agreement to remove the Clean Indoor Air Act from this and keep the licensure, which my amendment does. But nevertheless, I think there's going to be hard-pressed, and I think people need to understand that if this goes to 21, there isn't the votes here in this body. That you heard most committee members speak out against this, at 21, it would have never gotten out of committee at 21. And on Select File, if I heard correctly, Senator Blood made a comment about

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extended debate, which I will agree with, that I will take part in. We really have to think about, do you want this to get out of schools, or do you want this to go to 21? As a body, that's what we have to think about. I'm willing to come back next year and work on language for exemptions and everything else, but that's a whole lot of stakeholders we have to bring in to make sure that we understand the enforcement and the practical implications of anything like an exemption or anything like that, and I can't do that on the floor, nor will I do that on the floor. That's a bigger conversation across the entire industry, and I don't think it's good, necessarily, policy when dealing with the industry that can fundamentally change the industry that we just do it on the floor. So with that, I would ask for a red vote on AM1478, allow me to do a short opening on my bill-- or my amendment, and then vote green on that, then vote green on the underlying bill, and move this thing forward. But I think at 21, colleagues need to understand that this won't move forward, and the issue for your schools will still remain, at least for another year. Thank you, Mr. President.

FOLEY: Thank you, Senator Wayne. Senator Brandt.

BRANDT: Thank you, Mr. Lieutenant Governor. Thank you, Senator Quick, for bringing this bill. I support this bill, and I was one of the five people that brought it out of committee. And as you observe, what everybody on the committee has said, it looks like we have five different opinions of the five people that came out of committee, and then you've got three other people that have an opinion on this, and I'm all right with 19 or 21. The bulk of the testimony that day was about the schools. And two years ago, they said they had 7 percent in the schools, and these were big schools. This was Grand Island and Millard and principals from these schools that testified. Last year, they have 20 percent of their students that are vaping, and of that 20 percent, in the testimony, 7 percent of these students had THC in this vape. And it's very difficult, the way technology moves, for the schools and everybody to keep up with this. So I guess I wanted the body to be aware of that. Senator Quick, would you yield for a question?

FOLEY: Senator Quick, would you yield, please?

QUICK: Yes, I will.

BRANDT: Senator Quick, is there a provision in your bill for possession of vaping products?

QUICK: I don't know how that-- you know, I know it addresses purchase of the products, but I do think that-- I don't know how they treat tobacco products right now if a law enforcement officer sees someone smoking who they think that might be under age. But it would be a classified misdemeanor, I would think. I know for purchase but I don't know if that also covers possession.



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BRANDT: All right. Thank you. Senator Gragert, would you yield for a question?

FOLEY: Senator Gragert, would you yield, please?

GRAGERT: Yes, I will.

BRANDT: We've had a lot of discussion this morning about 18-year-olds can serve their country. My daughter serves our country, she's in the Air Force, but she's past 21. If you were 18 on a military base and you wanted to buy tobacco, could you do that?

GRAGERT: Well, personal experience, I went in the military when I was 18, and at that time the drinking age was 19, so I made a decision to go into the military with that-- I wasn't drafted, it was volunteer, so. And, yes, I was able to drink on base but I could not drink off base at that time.

BRANDT: What about tobacco products?

GRAGERT: Tobacco, I'm not sure. I was never a smoker.

BRANDT: OK. But today, my understanding is, if you serve in the military, you could be 18 and buy tobacco products on any base, even if the state you're in is 21.

GRAGERT: If it was back when I went in, certainly that would be the case that you would be able to buy cigarettes at 18 on base.

BRANDT: All right. Thank you. Senator Blood, would you yield for a question?

FOLEY: Senator Blood, will you yield, please?

BLOOD: I would be happy to yield, my friend.

BRANDT: All right. Thank you. In the testimony, if I remember correctly, the vape shop owners testified that there were hundreds of different flavors that these vape products could be-- you could go in and select strawberry or lemon or whatever. Does that ring a bell?

BLOOD: That would be accurate.

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BRANDT: OK. And your opposition is because the bill doesn't go far enough to include all of these products?

BLOOD: We're not just talking about flavors, we're talking about things like caffeine, so they-- and caffeine, marijuana. There's multiple things that can be put into this product that I don't feel are addressed in the bill.

BRANDT: All right. Thank you.

BLOOD: You're welcome.

BRANDT: Senator Hilgers, would you yield for a question?

FOLEY: Senator Hilgers, would you yield, please?

HILGERS: Be happy to.

BRANDT: Senator Hilgers, you heard Senator Groene testify nicotine is good for you. Do you believe that?

FOLEY: One minute.

HILGERS: I'm not sure he said it was good for you. I think he said it wasn't harmful, is what I recall him saying.

BRANDT: OK. Would you-- do you have a problem with making it 21 to obtain nicotine?

HILGERS: Uh, yes.

BRANDT: Why?

HILGERS: For the reason I stated before, which is that the general age of majority is either 18 or 19, and I think at that point you ought to be able to have freedom to choose. The one exception we generally have is for alcohol, and I think that's a special case.

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BRANDT: All right. Thank you. Colleagues, I stand in support of AM1478, AM901, and LB149. Thank you.

FOLEY: Thank you, Senator Brandt. Senator Chambers, you're recognized. It's your third opportunity.

CHAMBERS: Mr. President, members of the Legislature, do you see how nice I can be when you bring a sensible bill? Look at the different individuals with whom I am agreeing this morning. And that biblical verse says, oh how wonderful it is when brethren-- and I'll add, and sistren --to dwell together in peace. There is an agency of government, it's called the Alcohol, Tobacco, Firearms and Explosives Bureau. It shows that the view is that all of these items, even though they're disparate in nature, are harmful, even though there are some circumstances when it is legal to use any or all of them, but because of the potential for misuse, this bureau is in place to deal with those wrongful uses of it. Senator Groene said everybody is addicted to something. He's-- I'm addicted to living. He said that sugar, if you give it up, you'll live longer. I like sugar. I'm talking about, you know, the product. If you give up sugar, you don't live longer, it just seems like you're living longer. Life is hard without sugar. C&H, I knew that commercial. [SINGING] C&H, pure cane sugar from Hawaii, growing in the sun, island sugar-- oh, Senator Wayne gave me that look, so I won't sing the rest of it. [LAUGHTER] But that was one of my favorite songs. In all seriousness, some things have to be done incrementally and when you're trying to protect young people, which I think is a valid and appropriate role for government to play, you would not be wise to come down with a sledgehammer approach and list all of the things you'd rather young people not do, and make all of them against the law. So you pick those, which even if alone, may not be something that would kill a person, but understanding the nature of youth because we all were young. One thing can lead to another and another, and that argument is often given when there's a particular item that somebody does not want to be made available to young people. I have always wanted to get rid of the death penalty, notwithstanding the fact that it was passed over a Governor's veto at one point, lay that aside. Down through the decades, I couldn't get it. So I wanted to do things that would take away the approval of violence by the government, or any entity of government. So the first thing I was able to do was get corporal punishment out of the public schools. Then when it came to the death penalty, prohibit it from being applied to people, at that time the term was mentally retarded. The next one was to set an age limit. Anybody who committed what would ordinarily make him or her eligible to the death penalty, anybody who committed such an offense, if committed before the age of 18, could not be subject to the death penalty. Both of those latitude things the U.S. Supreme Court followed Nebraska's lead. Senator Brandt may be the one who mentioned that the five people who voted this out of committee may have each had a different reason. If you read--

FOLEY: One minute.

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CHAMBERS: --court opinions by the Supreme Court, you will see that they will often have opinions where every judge on the prevailing side wrote a separate opinion to explain why he or she supported it, but together they came as a group and reached a decision that was binding on everybody. As for the young people going to war, the "Bible" said, old men for counsel, young men for war. Young men have always been the fodder of war, f-o-d-d-e-r. Old men make wars, young men fight them. So that is such an aberration it should not be used as a standard for anything except to show how younger people can be dealt with unjustly by the older people, even to the point of losing their lives for slogans and nothing of consequence. I support this amendment before us and I support the bill. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Quick, you're recognized, your third opportunity.

QUICK: Thank you, Mr. President. One of the things-- and I know all of you have seen these articles, or saw the news clips on our local stations addressing the vaping issue in our schools. This is the main reason I'm bringing this bill is to help our children and to keep these products out of their hands. And just as recently-- this last Sunday, we had two articles in the Grand Island Independent talking about children vaping in schools. This is an important issue that we need to face, that we need to address. And I think if we don't address it now, we're going to be addressing it in the future because we're going to have a whole generation addicted to nicotine. Now, I know Senator Groene may disagree with me on nicotine addiction, but what I would tell you, it affects behavior, it affects brain development, the studies show it, and I can tell you I have someone very close to me that works in labor and delivery, and she's seen babies addicted to nicotine. The mother has used nicotine throughout her pregnancy and when that baby is born, that baby has serious issues with nicotine addiction. It is a serious problem. And that's my main concern with this bill. I know it's not perfect, it's not perfect for everyone. I've tried to work with everyone. If I work with someone on one side, then I have opposition from the other side. If I work with that side, then I have opposition from the other side. So my big thing was to work with the Attorney General's Office to help bring the language that would best suit this bill. I really want 21. I know that there are some people that object to that. I think the big thing with 21, the studies show-- and I have a study here, and I wish I had handed it out to everyone, but it had a study at age 19, it had a study at age 21, and 25. And 21 was the best age at which to effectively reduce nicotine consumption for minors, and reduce the use of tobacco products. And I think that's something that we need to really think about when we vote on this. I think 21 should be the age. I think-- I had agreement from-- I was really surprised when I was bringing this bill because I just brought it for vaping products, and I wasn't going to touch tobacco, but I wanted to find out what my opposition would be. So I talked to some people in the tobacco industry, they said take us to 21 as well. I talked to retailers. They said, either leave it at 18 or take us to 21, but don't put us at 19 because it makes it harder for us to recalculate every time we have to train new employees. I think the 21 will be easy for retailers in the fact that they can just

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look at the shape of the license and they'll see that you're a 21-year-old. So, and I think that will help address a lot of our issues in the school system, and help these children. I mean, I want you to really think about it, because, like I said, this could affect us later on. I've always said invest in our children on the front end. Don't wait until we have to fix all the problems that we have. Why don't we address it now? And that could be anything from detention issues to, I believe, with health issues for children. The sooner we can help them, the more benefits that we will receive as a state, and the less dollars that we will have to put out later on. Thank you, Mr. President.

FOLEY: Thank you, Senator Quick. Senator Murman.

MURMAN: Thank you, Mr. Lieutenant Governor. I rise in support of LB149 and also AM901, and I'm a little bit undecided yet on AM1478. I just-- I don't have a lot to add, but I just thought I'd better mention that as I campaigned in the district in the last year, I did hear from school officials that they would appreciate the support in raising the age to keep vaping out of the schools. Of course, it's not allowed in schools now, but it just gives them a little bit of extra support by raising that age. And I also did hear from healthcare providers, and they did say that there are dangers of vaping. Vaping isn't nearly as dangerous as JUULing. I don't know a lot about the difference between the two, but as I understand it, it's really hard to distinguish if a person is actually vaping or JUULing. So the healthcare providers did tell me that because of a young person's developing brain, that it is important to keep that legal age as high as possible. So, thank you for your time.

FOLEY: Thank you, Senator Murman. Senator Lowe.

LOWE: Question.

FOLEY: The question has been called. Do I see five hands? I do. The question is, shall debate cease? Those in favor of ceasing debate vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 31 ayes, 2 nays to cease debate.

FOLEY: Debate does cease. Senator Friesen, you're recognized to close on AM1478.

FRIESEN: Thank you, Mr. President. Again, this is a very simple bill. It just changes the date and makes it 21 to purchase all tobacco products and vaping products. Again, I think it's a good amendment, and overall, I think it's a good bill. Thank you, Mr. President.

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FOLEY: Thank you, Senator Friesen. The question for the body is the adoption of AM1478. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? 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: 24 ayes, 8 nays to place the house 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. Unauthorized personnel please leave the floor. The house is under call. Roll call vote has been requested when we have everyone under call. Reverse order. Thank you. Senator Crawford, McDonnell, Hilkemann, Speaker Scheer, the house is under call. All unexcused members are now present. The question for the body is the adoption of AM1478. There's been a request for a roll call vote in reverse order. Mr. Clerk, please call the roll.

CLERK: (Roll call vote taken.) 22 ayes, 25 nays, Mr. President.

FOLEY: AM1478 is not adopted. I raise the call. Items for the record, please.

CLERK: Before we proceed, Mr. President, thank you. Explanation of votes from Senator Matt Hansen and Senator Wayne. I have a new A bill, LB657A by Senator Wayne. It appropriates funds to implement LB657. Enrollment and Review reports LB184, LB478, LB595, LB96, LB538A, LB179, LB468, LB418, LB560, LB433 and LB86, all to Select File, some having Enrollment and Review amendments. New resolution: LR97 by Senator Cavanaugh and others asking the Legislature to recognize April, 2019, as Sexual Assault Awareness Month. And Senator Lowe offers LR98 which is an interim study; that will be referred to the Executive board. Mr. President, with respect to LB149, Senator Wayne would move to amend the committee amendments with AM1228.

FOLEY: Senator Wayne, you're recognized to open on AM1228.

WAYNE: Thank you. Thank you, Mr. President, and thank you, colleagues. This amendment comes from-- with the understanding on at least three members on the committee, if not more, which was to take it to 19 and to remove it from the Clean Indoor Air Act. I won't spend a lot of time on the amendment because we had a pretty good discussion already going, and I guess I could hop in here. The reason I'm removing this from the Indoor Clean Air Act is because under the current bill, even vape stores or vape shops, you wouldn't be allowed to vape in, and that makes absolutely no sense. It still requires the licensure, it still requires a lot of the other things in the bill; you have to be 19 years old. But there is no exemption at all underneath the current

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bill and even the amendment that allows vape stores or vape places to at least have vaping inside of there. This bill goes a step further by saying it doesn't even apply to the Clean Indoor Air Act because the studies just aren't there. Colleagues, there is not empirical data that shows that there are harmful chemicals that come from the vapor, the exhaust, if you want to call it. It is literally water. Now, there are some elements that are in these chemicals like they are regulated, there's different product qualities that have trace amounts of something. But it's nowhere near-- it's not harmful and there's no evidence to show that somebody sitting next to you will inhale that and have any chemical or biological reaction. That is similar-- I mean, that is opposite of what happened in tobacco. In tobacco there were numerous, numerous of studies, years and years of empirical data to show that if somebody is sitting next to somebody, and they were to blow out smoke, it wasn't the nicotine, it was all the other harmful chemicals that came out with the smoke that harmed the person sitting next to the person. We don't have any data. If your local bar, and you feel they're upset-- or you're upset about people vaping, that is a bar owner's decision to do that. As it comes to a public health concern, the data just isn't there. There's no data. We spent a lot of time, especially my colleagues in the last couple of days arguing about data and science, it's just not there to support indoor ban. Again, this was an agreement that I thought, my colleague, Senator Lowe thought, another colleague on the committee, I believe, I'll let that individual speak because I didn't talk to her before I got here, all agreed that these two things would be the bill. We voted it out of committee because we were trying to get it on the agenda faster because we knew the importance of this issue to Senator Quick. While it did take a little bit to get on the agenda, there was still the understanding that an amendment would be brought. At one point Senator Lowe and I had a discussion about well, then, one of us are going to bring the amendment, and I said I would do it. I'm just asking this body to hold the agreement that was in place coming out of our committee to be the standard here. That when you have an agreement among colleagues, you support that agreement, and you move forward. Again, the data is not there to support the Indoor Air Act or this falling underneath there. It makes no sense that if you own a vape store, and now that you happen to be licensed even under my amendment, that you cannot smoke that product in there. So you cannot try it out, you cannot do anything in their own store. That makes no sense to me. And, again, the 19 requirement solves the issue that Senator Quick, Senator Bostelman, myself, and others are trying to deal with around this vape product being inside of schools-- inside of our school buildings. So I would ask for a green vote on AM1228 and I would ask the support to the underlying bill. And with that, I will answer any questions. Thank you, Mr. Speaker.

SCHEER: Thank you, Senator Wayne. Going to discussion, those waiting in the queue: Senators Groene, Erdman, Quick, and others. Senator Groene, you're recognized.

GROENE: Thank you, Mr. Speaker. Clarification, I did not say nicotine was good for you. What I said was this nicotine, no evidence that it causes cancer or that it's any more harmful to you than caffeine or sugar, which are addictive substances. Nicotine is a natural occurring product in

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the nightshade plants. When you eat a potato, a tomato, or an eggplant, you are consuming nicotine. Smoking is bad for you. Senator Wayne made it clear. He made a good evidence of it. It's the tar and the smoke and the carcinogens in the smoke that cause you problems, not the nicotine. I've seen this before, but here's just one study from the Brown University Child and Adolescent Behavior letter. The dramatic increase in teen vaping-- this is the headline --is the largest public health success story in our lifetime. We have spent millions of tobacco money, tobacco settlement money, hired people to go out and try to convince our youth not to smoke. The biggest reduction in youth smoking has occurred as vaping has risen. I've got to look at the facts, folks. So now you're going to have a lot of 18-year-olds looking for a thrill, they're going to gag, throw up when they smoke their first three cigarettes, but they're going to feel lightheadedness and a utopia, and they will put up with that disgusting smoke in their lungs to get that nicotine thrill. There is absolutely no evidence that anybody who starts vaping then decides to put disgusting smoke in their lungs and cough and hack so that they can get the high of nicotine when they already have had that thrill with a sweet-tasting additive to the vaping. That's reality. Smoking is terrible. Smoking is bad. Nicotine is just another common drug that occurs naturally in our plants, like caffeine and sugars. Do we want people to take anything that alters their personalities? Alcohol? That's why we take it, it alters who we are. Caffeine, we take caffeine because it alters and adjusts our personalities or euphoria. Sugar is the same way. Nicotine is the same way. There are others out there. It's human nature. We don't like ourselves, or for some other reason, we do these things to our body, but that isn't the argument here. Is nicotine bad for a 16 or 17 or 18-year-old to do, or is them going down and paying six bucks for a pack of cigarettes a public health issue? Nicotine is not. Cigarettes are. So as far as the schools go, enforce it. Put a rule in that you do not allow vaping, any kind of a product of vaping in your school or you face expulsion, just like if you brought a six pack of beer or a small jug of whiskey to school. You can do that. Each school can do that. This-- I don't understand what this does to change that. If kids can get pot, which is completely illegal in the state of Nebraska and it's an epidemic, they're surely going to get some vaping material that some 19-year-old will buy for them.

SCHEER: One minute.

GROENE: They can get alcohol, which we've fought for years and generations trying to stop youth from drinking, and a large group of them do. And we penalize them, and we penalize the people who sell it to them, and they still do it. Really, you're going to do this, you're going to destroy small businesses, you're going to cause an epidemic in teen smoking again, reverse the trends in this state and other states, because you don't like smoking and you associate it with a minor drug called nicotine. That's what you're doing here. You're equitably claiming that a common drug that's harmless, doesn't cause cancer, is addictive, because you don't like smoking. That's like saying you don't like alcohol because you don't like whiskey, but alcohol has its purposes too. Thank you.



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SCHEER: Time, Senator. Thank you, Senator Groene. Senator Erdman, you're recognized.

ERDMAN: Thank you, Mr. Speaker. Good morning. Good morning, colleagues. I rise today to recognize someone who has made a difference in our compensation. That one person is Senator Chambers. Senator Chambers, I want to thank you for putting in place the reimbursements that we get because those make a difference to us who live far away as well as those who are close. So I was wondering if Senator Chambers would yield to a question.

FOLEY: Senator Chambers, would you yield, please?

CHAMBERS: With trepidation, yes.

ERDMAN: Senator Chambers, have I ever recognized you in this manner before?

CHAMBERS: To the point where it's embarrassing, yes, you have.

ERDMAN: OK. I didn't mean for it to be embarrassing, but the question I have is, when was that that you worked on in stating this procedure?

CHAMBERS: You said when?

ERDMAN: Yes, what year was that?

CHAMBERS: It was a long time ago, but I can't give you the exact year.

ERDMAN: OK. Well, I appreciate it and I'm sure everybody else does in this room. I wasn't quite sure where you started, where you were going when you started reading off our names, but it didn't take me long to figure it out. So, for the record, for about the fourth time, I want to make it known that I appreciate what Senator Chambers did. Thank you very much.

FOLEY: Thank you, Senator Erdman. Senator Quick.

QUICK: Thank you, Mr. President. I do stand in opposition to Senator Wayne's amendment. And one of the things I will say is that I had never talked-- none of the committee members ever talked to me about changing or taking out the Nebraska Clean Indoor Act. No one has ever really talked to me about that before when we were negotiating when to bring out as a package. So one of the things for me is that with the Nebraska Clean Indoor Act, and I want to read some of these

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things off, why including ends products in the Clean Indoor Act is important. The CDC has stated that e-cigarette aerosol is not harmless water vapor and is not as safe as clean air. It contains nicotine and can contain formaldehyde and metals like nickel, lead, ultra-fine particles that can damage lungs and other cancer causing agents like Acraline. The United States Surgeon General called on states and localities to include e-cigarettes in smoking free policies in order to protect the public from both secondhand smoke and secondhand aerosol. Allowing e-cigarettes in workplaces and public places undermines the success of smoke-free laws by creating an environment that encourages smoking. We must address newer forms of smoking and bring in our legislation to update to address smoking in all of its forms. Nebraska is one of three states that does not regulate indoor vaping, e-cigarette use at all. And 15 states have indoor vaping bans. So one of the things that-- this was one of the other things that I would have liked to have seen in the bill along with licensing and regulation, because I think what we see is if we are going to allow someone to smoke in a public place and children see that, they think it's acceptable. They think that it's acceptable for everyone to use that product and that just promotes more use in our schools. So I really think this-- that this amendment is-- and I did talk to Senator Wayne before about maybe bringing some type of legislation that would allow for like we have cigar bars and things like that and say, would that be acceptable? So like a vaping store could have-- people could vape in their stores or in a vape bar setting. And that was one of the things I did talk to him about, but as far as the Clean Indoor Act, I'm going to say that that wasn't one of the concerns that I heard from people til-- like right before we've been bringing this legislation. So during the committee process, no one really had come and addressed that to me. And so I take this amendment not lightly because I think it just promotes our children being-- having access to vaping products. Now, I'm going to look at it from my point of view a little bit. So if I'm sitting in a restaurant and there is someone-- and they don't allow smoking in this restaurant, but they do allow vaping. Now, as a citizen, my rights are being infringed upon. I don't want to be sitting next to someone who is vaping in a restaurant. So I guess we're going to pick a winner and loser here, I suppose. But for me, if I have my family there, I don't want them exposed to any other chemicals or nicotine product that while we're eating our lunch, or if I'm at a public event and there are people vaping around us, I don't want that to happen. I can tell you I was at a Nebraska football game--

FOLEY: One minute.

QUICK: --and someone was vaping right next to us. Now I don't think the University of Nebraska allowed them to have that vaping product, so we told them we would call security, so we were going to find out one way or the other, but they stopped vaping and left and went to another place in the stadium. I think as citizens, we shouldn't be subjected to that and that's why I don't want the Clean Indoor Act removed from this language. Thank you, Mr. President.

FOLEY: Thank you, Senator Quick. Senator Blood.

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BLOOD: Thank you, Mr. President. Fellow senators, friends all, I think I stand in support of Senator Wayne's amendment, but I'm going to listen to the debate and see what everybody has to say. One of the things that we need to get on record today, while we're doing all this feel-good talk about how we want to get this out of the hands of kids, is that the children that we're talking about use the Internet. They have their faces in their phones, their faces in their laptops, those that are still antiquated enough to have the laptops. And they can pretty much get anything they want off the Internet. I looked at some of the studies that have been done, and pretty consistently 95 percent of the kids that try to get these products off the Internet are successful. So I truly feel that if we aren't really smart about how we do legislation in this fashion, that that's all we're going to do is open the floodgates for them to continue to get it, if they're not already getting it from the Internet. And how do you stop that? Before we started debate on this bill, my staff and I contacted area pharmacies and we asked how old would you have to be to purchase nicotine gum because we're basically talking about nicotine, right? So 18 is the age to purchase nicotine gum at a pharmacy. So food for thought. And then Senator Brandt talked about how 20 percent of the young people were already vaping, it was my understanding. And I started to mull that around and I remember that not too recently that Grand Island, I think was number two when it comes to binge drinking as well. I think sometimes when we look at statistics, you have to look at the area of the state. And I grew up in-- what we always called, what the tri-state area. It's Kearney and Hastings and Grand Island, right? Tri-city, there we go. I think I'm mixing up with Minnesota. So one of the things that we have to understand in those areas is that they're still pretty rural. And there's really not a lot of things for kids to do. And for many, many decades kids have been participating in things that they shouldn't be participating in, be it premarital sex, be it alcohol, be it smoking, be it drugs. And we hate to talk about any place in Nebraska having those issues, but Grand Island has those issues. And so in order to stop these issues, do we need new legislation, or do we need to find more things for those kids to do so they're not partaking in things that are not good for them? And I'm not sure what that answer is, but I do know that the Internet is not going away. The vast majority of these kids aren't walking into stores and buying these products. And those kids that are given-- we have a lot of guilty parents who give their kids debit cards and cell phones at a very early age because they have to work and they frankly don't want to parent their kids and they feel that they can compensate them and keep them busy, they don't have to actually parent them. And because of that, there's always going to be at least one kid in the class that has access to a debit card, if not many, many more; access to the Internet that's going to be able to get these for the kids with little to no consequences. So just keep that in mind. Again, we love feel-good legislation. I support Senator Quick's mission in what he's trying to do, but I don't know if Senator Wayne's amendment is going to fix all the issues that I have with the bill as well. So with that, if I do have any time left, I would love to yield it to Senator Quick.

FOLEY: Thank you, Senator Blood. Senator Quick, 1:15.

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QUICK: Thank you, Senator Blood. One of the things that I did forget to mention when I was up earlier, although I do not support AM1228, I do support AM901. I think raising the age will be important. No matter what we get it to, we need to get that age separation and I agree with all the other language in the Attorney General's language in that General Affairs Committee amendment and I support my own bill, LB149. You know, I said a little bit about it before, but one of the things that I talked to Senator Wayne here yesterday when I seen that he had this amendment and went and talked to him and said that I know we have cigar bars and some of those facilities around, I'd be willing to take an amendment that would allow for a facility like that to have vaping in their own stores or to have a vaping bar, something like that. So I'm willing to work on something like that, but I think for the public to address some of the issues that some of us who don't want to go-- be next to someone vaping, maybe that would help with that issue to let them vape where they would like to, but allow us to be-- not be exposed to those vaping products. And with that, thank you, Mr. President.

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

LA GRONE: Thank you, Mr. President. I rise in support of AM1228. I think this strikes the right balance between ensuring that these products stay out of our schools and personal freedom for adults. I completely support what Senator Wayne is trying to do here. By raising it to 19, we ensure that these products are not going to be easily available to those individuals who are still under age and in high school. And on top of that, we also ensure that an adult has the freedom to choose to use these products, if they so choose, where they so choose. So I rise in strong support of this amendment because I think it strikes the right balance between those two goals. And I'd yield the rest of my time to Senator Wayne.

FOLEY: Thank you, Senator La Grone. Senator Wayne, 4:15.

WAYNE: Thank you. I won't be able to use all the four minutes. Colleagues, and I think you can ask Senator Lowe, he was in the room when we had this conversation, we had an agreement. I keep going back to that. And now the target has moved to where yesterday I was approached and it was an exemption like a cigar bar exemption. Had that conversation occurred two months ago, or a month ago, I might be-- we could have probably gotten to an agreement. But where we're at in this session and the things coming up, and quite honestly, the bills that I have coming up, I just don't have time to sit down and bring the industry together and figure that out. That's why we had an agreement. There was an agreement. This is-- my amendment reflects that agreement and that's what I'm trying to promote here. I'm trying to have this body hold us accountable to the agreement. I will tell you that if the bill fails, or my amendment fails, on myself or somebody else, I'm hoping me, if I will, I'll file a motion to recommit. And we'll go back to the committee and we'll go back to what-- since none of us had an agreement and we'll have to get it back out of

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committee. But we can't have agreements in the committee and have it change on the floor. Now, I understand if the body would have voted for 21, that is the will of the body and we keep moving forward. That is a fundamental difference than the bill introducer changing the agreement after it comes out of the committee. That to me is a fundamental difference. When you amend something on the floor and the body changes it over your objection, even though that didn't happen, then that's the will of the body and things happen on the floor. That's why they're called floor amendments, and that's why they're called amendments. But if we have an agreement, I believe we should uphold the agreement between the two individuals. And if you change your agreement, at least have the dignity to come and talk about it. But don't ask me to negotiate against myself after we've already had an agreement. I'm not doing that. The attorney in me won't allow me to do that even if I wanted to. That's just negotiation 101. You don't negotiate against yourself. So what my bill simply does, keeps it at 19 to solve the issue that Senator Quick is trying to address. It keeps the licensing requirement in. I think that's a huge gap in where we're at that we have to fill. We have to have a licensing requirement. It removes the Clean Indoor Air Act, because the difference between everything else, there is no empirical data. What Senator Quick said on the mike was it's not as clean as air. Well, ladies and gentlemen, this body, this air we breathe in this body is not as clean as most air. We don't have to walk any farther than outside the windowsills and see there's asbestos and everything else on the window. So anytime anybody touches that window, somewhere it's floating in this air. The fact that we have construction going on, this is not as clean as air as outside, most of the time. The other thing of it is, you walk into a bar, you walk into a family establishment and somebody is not vaping, but let's say they're watching Sons of Anarchy, which is on regular TV. There's more studies showing that exposing kids to violence than this, we're not regulating that. There's no data here to support what's going on.

FOLEY: One minute.

WAYNE: If there was data here saying that secondhand smoke or secondhand vape causes X, Y and Z, not one study here-- I'm talking about real data. A lot of data shows it, I'd be the first one to stand up, we got to do something about it. But the data is not here. It's just not there. There's trace amounts. Is it harmful? We don't know that. Is it close to being harmful? We don't know that. Can you even inhale it if you sit next to somebody? We don't know that. We know that there are a few products in this line that have trace amounts, but the majority of the good brands filter all that out. There isn't. It's water and nicotine. And sometimes they add a flavor to make it more palatable. But as far as the trace amounts, nobody can tell me anything about it. And I'm not comfortable making a policy decision without data to back it up when you're talking about removing an entire industry--

FOLEY: That's time, Senator.

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WAYNE: Thank you.

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

CHAMBERS: Thank you, Mr. President. As usual, you save the best for last. No, we're glad that everybody is here. I'm not going to speak about the bill at all. I'm going to try, based on my advanced years, to persuade you all of something. This bill should move. I hope that there will be a vote taken on it. I'm not of a frame of mind to say that if it's not what I want, then the bill shouldn't go at all. The Bible, for those who are scriptural, says, in the mouth of two or three witnesses let every word be established. Well, it didn't say who the witnesses are. I have my three witnesses. Percy Sledge sang a song, When a Man Loves a Woman, most people are familiar with the part-- well, anyway. I won't go into it because I might break into song. But one of the lyrics says, if I can't see you when I want to, I'll see you when I can. It means you take what you can get. The Rolling Stones said, you can't always get what you want, so you try to want what you get. There's a kind of country western group and they say, if you can't be with the one you love, honey, love the one you're with. This that we have before us now, whether it's all that we want, whether it's what we love, it's all we're going to get. And if we don't get to a vote, then we're not going to have anything and that's when I will be skeptical or suspicious with reference to people's motivation. That's all I will say. Thank you, Mr. President.

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

PANSING BROOKS: Thank you, Mr. Lieutenant Governor. I stand with great concern about AM1228. I don't know why, if people are so anxious to allow this to occur, why don't we make an exception for vape shops and vape bars, just like we did for cigar bars? The Judiciary Committee last week went to a cigar bar here in Lincoln for a time to just get together after a very long and contentious session so far with hearings. And we really had a great time. I had never been to a cigar bar before and, you know, it was really interesting to me to get to do that. But again, I'm sitting here hearing this information and I don't want to go to my favorite restaurants and be engulfed in vast amounts of smoke because people want to have that ability to do it wherever they want. Let's go forward and change the statute to mirror what is allowed with cigar bars and allow people that want to do it to go ahead and do it. But I don't really get why we need to make this open to everybody whenever they want. Literally, if you have not-- we just talked to one senator who had not seen anybody exhale vape. And when you see it, it reminds me of Alice in Wonderland, the way that it just-- it's a huge amount of smoke. My dad died from smoking when I was 14. So I have been quite firm and certain about where I stand on smoking and I understand that this isn't a tobacco delivery system, at least yet, and I have real concerns. The CDC says that nicotine poses dangers to pregnant women and fetuses, children, and

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adolescents. Use of nicotine in any form, including the electronic nicotine devices is unsafe. They say that it's highly addictive. Nicotine is toxic to developing fetuses and impairs fetal brain and lung development. Poisonings have resulted among users and nonusers. People can argue with me, but that's what's on the Web site for the Center for Disease Control. So we're in a situation where Senator Wayne is correct. We don't have all the policy. We don't know what all the studies are finding. But to just say OK, then fine, we're going to make it so that anybody can smoke anywhere, or vape anywhere, to me is unreasonable. I go to a number of small restaurants. You take five people vaping, that restaurant-- I would not go back. And yes, I know people are going to say, well, the restaurant can make that determination. But I want to be able to go where I want to go get food with friends and do what I want and I don't want to have to battle all of the smoke, all of the vape and have those smells, and they do smell. And if there are toxins, which the Center for Disease Control says that there are toxins, I don't want to fight that. It says that-- the Center for Disease Control says it contains nicotine and can contain formaldehyde and metals like nickel and lead, ultra-fine particles that can damage lungs and other cancer causing agents like Acraline. And I have all these statistics. So again, I went through a long period where my parents were both trying to quit smoking and I watched my mom when she finally was quitting smoking much after-- a long time after my dad died, she would sit in the smoking section-- remember, we used to have smoking sections of airplanes and of restaurants-- because she still loved the smell and loved what she got from that odor. Again, I don't want to smell it. I don't want to deal with it. If Senator Wayne is adamant about this, then let's just mirror this to the cigar bars and the vaping bars and move forward, and I support LB149 and AM901. Thank you very much, Mr. Lieutenant Governor.

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

ARCH: Thank you, Mr. President. I just have a couple of questions for Senator Wayne.

FOLEY: Senator Wayne, would you yield, please?

WAYNE: Yes.

ARCH: I may have missed some of this in your presentation, Senator Wayne, so I'm just going to ask for clarification. If it does not-- if it is not part of the Indoor Clean Act, I am assuming that any owner may continue to ban it from their premises if they choose to do so.

WAYNE: Correct.

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ARCH: Correct. So that-- I mean, I've been to many restaurants and it just says no vaping on the front door.

WAYNE: Correct.

ARCH: And that's the choice of the owner to ban that.

WAYNE: Correct.

ARCH: OK. I may have missed this as well, but in your amendment, you have eliminated 19 and you've referred to minor, age of majority, legal age to purchase, that type of thing. Can you help me understand that?

WAYNE: That might have been a bill drafting error in one of the areas. I want it to be 19. Let me be clear. I want it to be 19 and I want it to be removed from the Clean Indoor Air Act. That's all I wanted to do. So I did see that too.

ARCH: So do you have any concerns with that? I mean, it appears as though that age of--

WAYNE: Oh, that's right. Because the issue is-- yes, I remember. Thank you. The issue is, I also had fears of today if you pass a bill and pass a law, then you have 18-year-olds today who are smoking who instantly become criminals. And so this is a way to grandfather in those individuals who are 18 today. It will take effect next year, so next year they will still-- it wouldn't go on forever, but you would grandfather the current 18-year-olds in because we're going to create a whole class of criminals overnight and they would have no notice of anything except for the law change, that who is going to tell them that the law changed?

ARCH: OK. So then the use of minor-- minor --if the state changes that definition at any point, age of majority, minor, it would alter this as well, correct?

WAYNE: No. So on page 3, it says minor and what the definition is, but that's the definition for this act, for this area of the law. So that's the issue. It wouldn't change. It wouldn't change anywhere else. We do that all the time and-- as far as ages and what definitions mean for that particular act.

ARCH: So minor under-- minor is defined as any person under 19 years of age.



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WAYNE: Yes, except any person who is at least 18 years of age, January 1, 2020 shall now be considered a minor. That's that gap period.

ARCH: That's that one-year period.

WAYNE: Yeah, that grandfather clause.

ARCH: OK. Thank you. My last question has to do with schools. Are schools part of the Clean Indoor Act?

WAYNE: I don't believe so, but schools can ban it from indoors themselves too. That's just the school board policy and, in fact, OPS, when I was on the board, we had a no vaping on grounds or around schools as part of our policy.

ARCH: OK. All right. Thank you very much. Those are all my questions.

FOLEY: Thank you, Senator Arch and Senator Wayne. Senator Lowe.

LOWE: Thank you, Lieutenant Governor. You know, personal choice, I think that's what we need to be thinking about here. It's been brought up that people would not want to be in a restaurant where there was smoke or vaping and I agree with that. I probably wouldn't want to be there either and there are choices where I can go. As a businessman, I ran restaurants and bars for 20 years and there was smoke in all those bars even though I did take the cigarette machine out of one of my bars because I didn't agree with selling it. And so I thought it would lessen the smoke in the bar. It did not. People bought them before they came in. It's a personal choice. So one of my last establishments I had, I was building it, and I made it a smoke-free establishment. At that time, you could still smoke in public buildings and smoke in places of business. You could smoke in your homes or apartments. I wanted people to have an option, to go someplace where they could go, they could wear their nice clothes in, and at the end of the day they could walk out smelling very decent and not have to hang your clothes in the garage when you got home that night. Personal choice. As we were discussing this bill, I went on-line to see what I could do on-line. And today, I think the stars crossed and Senator Blood and I agree on quite a few things on this bill and I appreciate her standing up and speaking. But I went on-line and I could buy the parts for vaping products. All I had to do was agree that I wasn't 21. I got all the way down to where I would have to enter it on my debit card or credit card and it would be shipped to me. So let us not be fooled that this bill, even if it was 21, would have stopped vaping products in our children's hands. Many of these people-- many of these young people don't buy from stores. They use the Internet. We could ban them from our stores, from buying in our stores, but they

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will find ways to get these products. We did it when we were young. If something wasn't right and our parents said don't do it, many of us went out and found a way to get it done. So let's not be fooled that by passing a bill we will stop it all. We don't allow marijuana smoking. We don't allow smoking cigarettes in public places. It still gets done. Several times I've been on an airplane and I've smelled smoke, cigarette smoke. It has been banned now for years. Let's not be fooled. Let's have the administration of the schools grow a backbone and take these products away when they're found. Thank you, Mr. President.

FOLEY: Thank you, Senator Lowe. Senator Morfeld.

MORFELD: Thank you, Mr. President. I'm glad that Senator Lowe brought up personal choice because I love to talk about personal choice: abortion, marijuana, healthcare, talk about nicotine. We agree on motorcycle helmets actually. That being said, colleagues, I just have to point out the irony of listening to all this and listening to some people stand up in support of even nicotine in people's personal choice to use nicotine, which killed my grandmother when I was 11 years old to lung cancer, which is clearly dangerous, and yet we don't even allow people to use medical marijuana to be able to solve health issues that have been proven to be solved by medical marijuana. So I hope that we have a long discussion about personal choice and principled positions that aren't hypocritical when we come to Senator Wishart's bill, LB110, on medical marijuana. And if Senator Wishart's bill fails on the floor, then I'm happy to have that discussion at the ballot box and I'll bet the farm or the house that we'll win. So I just wanted to get up and make that point this morning, the irony of some of the arguments that I'm hearing on the floor. I'll be honest with you, I have gone back and forth on this bill about probably 10 or 15 times in my head. I don't even know how I'm going to vote yet necessarily because I'm very conflicted on this bill for a lot of the reasons that Senator Patty Pansing Brooks brought up, for some of the reasons that Senator Wayne has brought up, and many of the reasons that Senator Quick has brought up. So this has been a really tough bill for me. And, you know, most importantly, I owe an apology to my dear friend and colleague, Senator Andrew La Grone. I promised him on Saturday at my cousin's wedding that I would admit defeat to the soldier boy dance-off that he very clearly won at my cousin's wedding. So congratulations, Senator La Grone. Thank you, Mr. President.

FOLEY: Thank you, Senator Morfeld. Senator Quick.

QUICK: Thank you, Mr. President. And I'm not going to speak long. I would just-- I guess I would ask if Senator Wayne would yield to a question.

FOLEY: Senator Wayne, would you yield, please?

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WAYNE: Yes.

QUICK: My question is if we were to work on something between General and Select that would address maybe some of my concerns and yours, like allowing them to be able to vape in vape shops or like they do for cigar bars and those type of settings, would that be something that we could work on?

WAYNE: Yes, But there's two issues, Senator Quick. We had an agreement and if we bring bills to the floor and we negotiate on the floor to change those agreements, then how do we keep doing that and how do I know the agreement that we negotiate the next time is still going to be valid? And two, if you show me the data to support that vapes will somehow harm the person next to them, I will be all supportive. That's my answer.

QUICK: All right. Thank you, Senator Wayne. So, you know, my big issue-- I would just like it to come to a vote. I think this is too important of a bill to let not pass this year. I'm willing to work on language to try to address some of his concerns. I also want to-- would also like-- I think my concerns are valid too. So I think we need to address that as well. So if we can come to some type of agreement, I'm willing to let-- let's just vote on the bills and see where it all falls and then we can work on it between General and Select File to see if we can amend some of these issues. So I still probably won't-- I will say, I probably still won't support AM1228 because I-- I'm not saying going back on my word, but I do want to work to try to address those issues. I just don't think that taking out the Clean Indoor Act is the right way to do it. So, thank you, Mr. President.

FOLEY: Thank you, Senator Quick. Senator Briese.

BRIESE: Thank you, Mr. President, and good morning again, colleagues. I wanted to rise to clarify a few things. You know, we heard a couple of things early on we heard it doesn't make sense you couldn't vape in a vape shop. But as some of the folks pointed out, you know there are exceptions to the Clean Indoor Air Act and I think it was just discussed here that that might be looked at. But it seems to me that's a little bit problematic. We don't have a bill introduced towards that end of this year and I'm not sure that you could get that-- question whether you can get that done this year in this legislation. It was also mentioned that there is really no evidence as to the harm of secondhand vapor, so to speak. And I didn't research the issue, but all I know is what I heard in committee at the hearing and several testifiers would dispute that conclusion. In the transcript, page 33, we had a testifier talking about a variety of particles and chemicals from secondhand vapors. Page 45, another testifier listed numerous potential harmful chemicals and products. Page 47, somebody directed us to the FDA Web site that suggests, you know, that even e-cigarettes can contain toxic chemicals. Page 81, there's reference to the Surgeon General's

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position on this. So there at least were some representations at the hearing that these items are harmful. And with that said, I'm a little bit reluctant to dismiss this testimony and suggest that, no, this shouldn't be included in the Clean Indoor Air Act. But I'm going to listen to the testimony and I'd be interested to hear what type of a compromise can be worked out on this and we'd probably discuss this another day. Thank you, Mr. President.

FOLEY: Thank you, Senator Briese. Senator Wayne, you're recognized to close on your amendment.

WAYNE: Colleagues-- thank you, Mr. President. Colleagues, every piece of data we heard here today was about the user. Let me make sure I make that clear. Every piece of data we heard today was about the user. And I could only imagine-- I wasn't in the body and Senator Chambers was and I wish I had thought about this earlier and asked him a question, but when they were talking about tobacco products being smoked, I betcha there were more paper being sent around this body on study after study on the harmful effects of the person sitting next to the user, secondhand smoke, secondhand smoke. How many times did I hear that growing up? Secondhand smoke, 'cause there was data after data points behind it. What we heard today was, yes, there are trace amounts for the end user. The user. And here we are going to take what I would consider government overreach to say, hey, no, we know what's best for everybody. Although we don't have data to prove this, we know what's best for everybody. I don't think we do that as a body. I don't think we typically and continue just to say, I don't like this, so let's regulate it completely out of the family restaurant. If there's a small restaurant that you have concerns about vaping in, or a local bar, you could have that conversation and if it's a big enough economic impact, or they like you enough, they might say, no vaping because there are shops right now in my district that say no vaping. No smoking, no vaping. And that smoking means on the patio, 'cause see if you're outside in the patio, and it's an enclosed area, you can still smoke. But nope, none of that. We don't want any of that on our premises. All I'm asking for is the data to support indoor. It's not there. Furthermore, I believe in upholding the agreements we make. If you recall, I got on the floor and said that I'm going to bring back LB85 to uphold the agreement that the mayor of city of Omaha and I and the Speaker negotiated. We didn't have to do that. You recall that Senator Groene and I spent two days going back and forth 'cause of an agreement that we thought was broke. At some point I'm going to continue to stand up and say if we have an agreement, we should honor those agreements. I'm willing to work next year when I get people together, and that is a great song, Celebration. [LAUGHTER] I was going to start dancing, but that would be a little awkward. But my point in all, let's honor the agreement, but more importantly, let's make sure that we're not overstepping before the data is there. I'm willing to work on things next year, but many of you know my plate is completely full and I got a bill coming up here today. It's going to be a heavy lift after Senator Dorn's heavy lift, and I'm going to continue to work on those things. Had this been two months ago, everybody in this body knows that I will sit down and continue to work with anything. But now we got the budget

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coming up, hopefully we got some tax things coming up, and I still have four other bills that I'm trying to get to the finish line. I just don't have time to meet with all the industry people. If somebody else wants to step up, great. But my problem is that one champion in this, I can't sit in the room by myself anymore and negotiate with. Understand what I'm saying. That's hard for me to do. And since I can't do that right now, I can't put the time in right now. So I'm asking this body to uphold the agreement and next year if we want to create an exemption, we can do an interim study on it. I'm sure Chairman Briese will allow that. We figure out the industry and figure out how to craft it and make sure it's done right. With that, I'll ask for your green support on AM1228 and the underlying bill. And I'd ask for a call of the house.

FOLEY: 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: 23 ayes, 5 nays to place the house under call.

FOLEY: The house is under call. All members please return to your desk and check in. The house is under call. A roll call vote in reverse order has been requested. All members please return to your desk and check in. The house is under call. Senator Hughes, check in, please. Senator Bolz, check in, please. Senator Wayne, we're lacking Senator Lathrop and Senator Slama. We can wait or continue. We will proceed. The question for the body is the adoption of Senator Wayne's AM1228. There's been a request for a roll call vote in reverse order. Mr. Clerk.

CLERK: (Roll call vote taken.) 21 ayes, 21 nays, Mr. President, on the amendment.

FOLEY: The amendment is not adopted. I raise the call. Items for the record, Mr. Clerk.

CLERK: Thank you, Mr. President. New resolution by the Retirement Committee. (Re LR99.) That will be laid over.

Mr. President, Senator McDonnell would move to recess the body 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.

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

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

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

CLERK: Mr. President, I have just one item. Senator Clements offers LR100. That will be laid over.

FOLEY: Thank you, Mr. Clerk. Senator Kolterman, for what point do you rise?

KOLTERMAN: Point of personal privilege, please.

FOLEY: Please proceed.

KOLTERMAN: Good afternoon, colleagues. I've not yet spoken today, and I thought it would just be appropriate that I address the body on some important information that we've uncovered this morning. As you all know, Senator Scheer and I are known to be mistaken for one another on occasion, and I guess that's to be expected, but now we have someone new who's a little taller, a little wider, [LAUGHTER] but Senator Wayne, other than that, you're now my new brother from another mother. And all you have to do is read Unicameral Update and you can see that. Thank you very much. Welcome to the family. [LAUGHTER]

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

SCHEER: Thank you, Mr. President. Colleagues, because some of you have not been part of a veto override, I wanted to sort of preview what the rules will be in relationship to our discussion this afternoon. This is a yes/no question. Motions, amendments will be out of order. We cannot amend it. We cannot bracket it. You cannot do anything other than discuss the bill. It is a normal discussion. Each person will have three times at the mike. You do have the ability to provide your time to somebody else if you so wish. And at whatever point in time the queue is cleared, or if we are becoming redundant and somebody determines they want to call the question that's up to the Chair. Normally, that has not happened. We usually get our time in and people have made whatever discussion they want to make, and we will simply vote on it. It is either a yes or a no question, but it will run exactly like any other floor debate. So you will punch your light on, you'll be able to discuss things. You have three times at the mike if you choose to use that. And

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when everyone is done talking, then we will take a vote. So, it's not the one time up and you can't waive, it is different than that. It is a normal discussion, three times at the mike. You can provide your time to somebody else if you so wish. And we will move forward at the point in time that everyone has had their say. Thank you, Mr. President.

FOLEY: Thank you, Mr. Speaker. We'll move to the 1:30 agenda item. Mr. Clerk.

CLERK: Mr. President, Senator Dorn would move that LB472 become law, notwithstanding the objections of the Governor.

FOLEY: Thank you, Mr. Clerk. Senator Dorn, you're recognized to open on your motion.

DORN: Thank you, Mr. President, Lieutenant Governor. Welcome, colleagues. I come today with a motion to override the Governor's veto of LB472. LB472 passed on Final Reading with a vote of 43 ayes and 6 nays. This legislative body is aware of what has happened with Gage County and the Beatrice Six. The legal process is over. The courts have decided. The federal judgment is final. Gage County owes a judgment of 28.1 million, attorney fees of about 2 million, and about an additional 1 million in interest. This brings the total owed and due to approximately \$31 million. Today, under state statutes-- state statutes that this legislative body has put in place, Gage County will pay 100 percent of this judgment with property taxes. In their current fiscal year, Gage County has raised property taxes to the maximum 50-cent levy limit. This first year paying the judgment, the levy of 11.76 cents dedicated to that judgment will be used to raise approximately \$3.8 million. At that rate, it will take just a little bit over eight years to pay off the \$31 million judgment. This payment using property taxes, and future payments using property taxes, will be decided on and voted on solely by the county board, not by a vote of the people. In the Governor's veto letter he stated and I quote: Traditionally the Legislature has not authorized political subdivisions to impose new taxes on Nebraskans without a vote of the people. I remind you, 100 percent of this federal judgment of 31 million will be paid by new property taxes, a property tax increase that was not voted on by the people. Many of you have been contacted by the Governor in the last several days asking you to vote down this bill. One of his suggestions is similar to another bill I brought, which was LB473, the bill that would allow the state to lend the money to a county for a federal judgment at one-half percent interest. Currently, the state can do for a state judgment, but not a federal judgment. I visited with Nebraska State Treasurer John Murante several weeks ago about LB473. We visited about how a loan would be handled in the state's budget and fiscal accounting. Treasurer Murante said it would need to be accounted for and it would come out of the state's so-called rainy day fund. At that time the state was looking at a rainy day fund balance of about \$259 million. I also visited three or four times with Tom Bergquist, our chief fiscal director, about this, and he said the same thing. It would need to be a line-item out of the rainy day fund. I then visited with Appropriation

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Chairman Senator Stinner about a loan, and he also, after visiting with some other people, he contacted some other people, said it would need to come out of the rainy day fund. I then had the discussion with Senator Stinner about the possibility of that passing, and him and I both came to the same conclusion that this will year with that rainy day fund looking the way it was looking for those numbers, that there was a very, very small chance of having a loan pass. The other side to that also is, if you would pass a loan, that still requires-- or only allows that loan to be paid off 100 percent with property taxes. Gage County currently, if they would get the loan, would pay the state a half of a percent in that bill. Gage County currently, the interest rate was set on the federal judgment by the court in 2016 at 0.4512 of 1 percent or less than a half of a percent. So Gage County, the loan-- the interest rate on the loan would be about the same. Also the loan would only be allowed to be paid off by property taxes. This bill, LB472, would allow a county with a federal judgment of at least \$25 million to collect a one-half cent countywide sales tax to help pay the judgment. This sales tax could only be collected if the county is at its maximum levy authority of 50 cents. In other words, the county cannot use part of this sales tax to supplement each year those property taxes. If they go any less than 50 cents of levy, the county cannot collect this sales tax. This bill would sunset in 2017 [SIC--2027] or whenever the judgment is paid off, whichever comes first. This sales tax would need to be approved by at least five members of the board of seven, not by a two-thirds supermajority vote, and this sales tax would collect approximately \$1.25 million per year. Using the sales tax with the property taxes, then it would take the length of this paying the judgment off from right now approximately eight-plus years down to somewhere between six and six and a half years. LB472 will give some property tax relief, and it will help pay off the \$31 million judgment. I ask for a green vote in overriding the Governor's veto.

FOLEY: Thank you, Senator Dorn. Debate will now commence. Senator Chambers.

CHAMBERS: Mr. President, members of the Legislature, I enthusiastically support what Senator Dorn is doing, and it made me think of something. If I said this, it wouldn't catch your attention other than the fact that I'm calling your attention to it. Listen, my children, while I pause to tell you the story of William Dawes. You say, who is William Dawes? But on the other hand if I were to say, listen, my children and you shall hear of the midnight ride of Paul Revere, it was the 18th of April '75, hardly a man is now alive-- I'm one of them --who remembers that famous day and year. He said to his friends, if the British march by land or by sea from the town tonight, hang a lantern aloft in the old-- in the belfry-arch of the old church towers a signal light. One if by land, two if by sea. I, on the opposite shore will be ready to ride and spread the alarm to every Middlesex village and farm, for the countrymen to be up and to arm. That's what we need to do today. This Governor has been given the back of his hand to this Legislature even before we took session. Now, Senator Dorn pointed out why-- how the Governor said something was not traditional in terms of what the Legislature may allow. We allowed it. We took a vote. We, the Legislature, voted to do what Senator Dorn is asking. We don't have to be bound by what



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was not done in the past. I would tell the Governor this. Traditionally no Governor has spent more than a half million dollars to overturn a legislative enactment over his veto, but he did it. He will do anything he wants to do. He will tell these senators where you can go and tell others, this is where you had better go, and this is what you had better do. I'm probably more outraged and indignant than Senator Dorn because I've been here over four decades, and I've watched various governors bully this Legislature. Now, it is insulting to all of us, whether you voted for what Senator Dorn wanted the first time or not, for the Governor to presume that he can take a dozen votes off that vote that we gave. It takes 30 votes to override a veto. How many of you are going to be backed off by the Governor? That vote will be on the board, and it will tell us. Maybe not you. It will tell me what each one of you is. There should not be any reason to not vote the way that we did before. In fact, because we voted a certain way already, that should be additional incentive for us to stick by what we did. Nobody was drunk in here that day. Nobody was under hypnosis. Nobody was confused, except maybe one of our friends who sits in the front row in middle of the group. That person may have been confused, but the rest of us knew good and well what we were doing. All of us are adults. Now, if you want some ridicule, you back off what we did before. That is a matter of record. I'd like to ask Senator Dorn a question.

FOLEY: Senator Dorn, would you yield, please?

DORN: Yes.

CHAMBERS: Senator Dorn, have you and I ever socialized before?

DORN: Not outside of this Chamber, no.

CHAMBERS: Had you ever talked to me personally before you came down here?

DORN: No, I have not.

CHAMBERS: Is there any reason for you to think that the only reason I'm doing this is because you and I are personal friends?

DORN: No.

CHAMBERS: Right. [LAUGHTER] Look, many-- thank you, Senator Dorn. Senator Erdman touched on one thing that would indicate it. I care about the Legislature as an institution.

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FOLEY: One minute.

CHAMBERS: I don't just say it. I have done things. You got that pink slip today. Some of you from far, far away from this Legislature and that money that you get now that I had to work hard and overcome a Governor's veto, then forced the state to bring an action in court so that some of you can come from hundreds of miles away to oppose everything that I do. Different points of view are necessary. There are different entities, different interests, and all of those interests need to be represented here. And if there are people who but for that money couldn't afford to be here, it would be the state's and the Legislature's loss. If we never do it again, for once--

FOLEY: That's time, Senator.

CHAMBERS: --I hope this flock of sheep--

FOLEY: That's time, Senator Chambers.

CHAMBERS: --will behave like a pride of lions.

FOLEY: Senator Chambers, it's time.

CHAMBERS: Listen to me roar.

FOLEY: Thank you, Senator Chambers. Senator Lowe.

LOWE: Thank you, Lieutenant Governor. Once again I stand in opposition to LB472. This is not the right way to do it. I have empathy for the people of Gage County, the taxpayers of Gage County. I have empathy for Senator Dorn and I pride him on bringing this bill to help solve the problem, but this is not the right way to do it. It needs to be taken to a vote of the people. It should not be in the hands of five councilmen, and that's what it would be. You take it away from the vote of the people, and we give it to a body of five. A body of seven, but they only need three quarters to pass it. Our system is at stake here. Senator Chambers, you stated that this is a special thing, a special bill. It has limits. You, sir, should know that when we pass legislation for one certain thing, it's not a good thing, and that's what we would be doing, maybe, maybe. Because we could come up with another time like this, a federal judgment could be levied on a county, and then we have to pay-- a county or a city, and then we have to pay and we'd have to come up with a new sales tax. A new tax. One more, not by the vote of the people, but by just a simple majority of three-quarters. That's not the way our system works. We need to come up with 21 people to vote this down. This is new. It has come back to us. The system is working as it should.

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This is the way it is. You send a bill off once it is passed here to the Governor, and he either signs it or he can veto it. That's the way it has always been. This is nothing new. This is nothing new with our Governor now. This is the way it works in the federal government. The President can also do the same thing, and then it goes back to the Houses. So let's not let this one pass. Let's find another solution for Gage County, one that will work. I have faith in the people of Gage County that they will vote in favor of this, and it needs to go for a vote of the people. Thank you, Lieutenant Governor.

FOLEY: Thank you, Senator Lowe. Senator Moser.

MOSER: Good afternoon, colleagues, and thank you, Mr. President. Well, this kind of puts us in a kind of a somber mood this afternoon when we consider the forces that we have to consider. I don't have the sense of glee that Senator Chambers has with considering a veto override. I don't have any particular issue with the Governor even though we don't see eye to eye on everything. But I think we have to look at this not so much as who's for it, who's against it, but more at the issues at hand. And if we were in that situation, if it was my county that had this problem, would I want to do something to try to help? I'm not happy with the judgment. I think 31 million is a lot of money, and the people who were probably the most at fault at this aren't around to be brought to pay for it, so it falls on the pocketbook of the citizens of Gage County. And this bill enables Gage County, their board, to consider a sales tax. The citizens can still go to the county board and tell them whether or not they are in favor of that, so they still have a chance to address their concerns if that's how they'd rather pay for it. But this just gives them the option of using sales tax to pay for part of it. You know, it's a messy situation. Even if this passes, I'm not going to be gleeful, but I just think it's the right thing to do. If it happened to me, to my county, or any county in my district, I'd want some help. And I think it shows a lot of determination and effort on the behalf of Senator Dorn to bring this bill and to fight for this. I don't think every freshman senator has this kind of animus for a bill, and I admire him for bringing it and for standing up for what he believes. Thank you.

FOLEY: Thank you, Senator Moser. (Visitors introduced.) Continuing discussion. Senator Briese.

BRIESE: Thank you, Mr. President. Good afternoon, colleagues. I rise in support of Senator Dorn's motion to override here, and I don't do this lightly. But I'm really disappointed that we're even here discussing this today. We have a property tax crisis in this state because of our unreasonable reliance on property taxes to fund local government, fund public education in this state. And this crisis has been exacerbated in Gage County because of this judgment. Here, Senator Dorn found a way to provide some relief to the beleaguered taxpayers of Gage County. He found a solution that can help spread the cost of repaying this. And this body adopted his

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solution by a substantial margin, and now it's back in our laps. But this does serve to remind us of a recurring issue discussed by this body, and that is our overreliance on property taxes to fund local government, to fund public education. And I keep going back to the farmer that testified on this bill. This farmer talked about how his property taxes are going to go up, are going up to a point that he's going to be paying roughly 37 times more than a typical individual nonfarmer in his county. He doesn't think that's fair and neither do I. And, unfortunately, he's one of a group that would most likely get outvoted in a public election on this issue. Responsible tax policy should be fair, should be balanced, it should be sustainable. And I would suggest the fairest, most responsible, most sustainable means of repaying this is to expand the tax base to include a one-half cent sales tax on all taxable sales as proposed in Senator Dorn's bill. This spreads the burden of paying for this. It will be perceived as a more fair, more balanced way of addressing this, and it's more sustainable than calling upon ag producers already struggling from red ink and owners' property taxes to bail out Gage County. It's more sustainable than calling upon a small subset of the residents to foot this bill. And remember, we're not talking about a very-- we are talking about a very limited set of circumstances. We're talking about a federal judgment imposed by a federal court in excess of \$25 million, and it has to be approved by a two-thirds vote of the local board. This is one way we can deliver property tax relief to some fellow Nebraskans, and I will vote for the override. Thank you, Mr. President.

FOLEY: Thank you, Senator Briese. Senator Erdman.

ERDMAN: Thank you, Lieutenant Governor. Good afternoon. Senator Moser's right, it's kind of a somber attitude in here, and I think it should be. I have shared with Senator Dorn what I'm going to do on this bill. And I'm going to give you the reason why I'm going to vote like I'm going to. I voted for LB472 three times. And I believe it was the right thing to do. And then in Appropriations we had an opportunity to make a contribution of \$51 million to the Property Tax Credit Program which would have lowered property tax to those people in Gage County. Maybe it was insignificant, but it was a lowering of the property tax. Senator Dorn voted to remove \$25 million from the Property Tax Credit Program. So as I shared with Senator Dorn, you can't have it both ways. You raise sales tax to lower property tax, and then you vote to remove 25 million from the Property Tax Credit Program to raise property tax. You can't have it both ways. One way or the other, but you can't be on both sides of the same issue. So, therefore, I will be voting no. I will be voting to sustain the Governor's veto on this for that reason. I understand property tax is a big issue. It's the number one issue. But I also understand we need to learn how to vote correctly to lower property tax, and not do it one way one day, and another way the next. Thank you.

FOLEY: Thank you, Senator Erdman. Senator Chambers.

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CHAMBERS: Thank you. Mr. President, members of the Legislature, as I state my three "Is" are the least, last, and the lost. I'd like to before I start ask Senator Lowe a question or two.

FOLEY: Senator Lowe, would you yield, please?

LOWE: Yes.

CHAMBERS: Senator Lowe, sometimes my dreams are so vivid that when a certain amount of time passes, I'm not 100 percent sure whether I dreamed something or read it. So if this is something I dreamed, I stand to be corrected. Did you offer a bill to allow a tax break of \$100 for gun owners who get training in the use of that gun?

LOWE: Yes, I did.

CHAMBERS: Isn't that giving special consideration to a certain small group of people?

LOWE: Yes, it is.

CHAMBERS: Thanks, and I think-- that's all I have. I think I made my point. For gunsels, gun lovers, a tax break. They don't need that \$100. That is what is a slap in the face of everybody in this state. Senator Dorn is doing what you don't see many politicians do. He's putting his head on the political chopping block because if the people in his county don't like what he did, he won't be back here next time. If he comes back, it means they like it. As was pointed out, the people in that county can show how they feel when time comes for this to be considered by their county board. If they can bring enough pressure to bear, those county officials will not vote to levy that tax. We're not levying the tax with this vote. We're putting it in the hands of the people who were elected to represent that county. And if those people who were to be represented by these individuals on that board provide enough heat, then we will see what the outcome is. But for my part, I see what Senator Erdman's talking about, but I think he was offering legislation and changes to alter the way property is assessed if it's damaged by a flood, a fire, or a natural disaster, and that's for everybody from now on. Why should we allow something like that to be done just because those people's homes happen to get burned up or flooded out? We're considering that legislation right now, and if you don't know what it is, it's LB512. So he wants it both ways also. The difference between me and most people here, I will acknowledge what it is that I'm doing. I said in the first place, this is an extraordinary circumstance and extraordinary circumstances call for extraordinary measures. Courts even recognize that. They take into consideration all of the surrounding circumstances in an issue presented to the court for decision. That's why in some cases they will say, we handled this particular matter on a case-by-case basis.

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This decision applies to this set of circumstances. It is not a general statement of the law that applies always. A case-by-case basis. This Legislature has the nimbleness built into the very process itself, whether we use it or not--

FOLEY: One minute.

CHAMBERS: --to be able to go in one direction and turn on a dime and go in another direction if circumstances warrant that. That's what a legislature is supposed to do. That is the way we're supposed to behave. I was pleased with what the Legislature did when it gave that vote. Now, if I was vindictive, I'd say, stick it to the "ruralees", don't give them anything. In that county they voted to overturn the abolition of the death penalty, I want to fix them, and I'd be leading the charge to uphold the veto. But see unlike some people, I cannot look at the individuals who are in a bad situation and say because I have a gripe with something they did, I'm going to withhold from them the justice-- the attempt to get justice that the Legislature is able to provide. Thank you, Mr. President.

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

WAYNE: Were you speaking to me or Senator Kolterman? [LAUGHTER] Just wanted to-- trying to clarify this as we keep moving forward here. Sorry, my legal counsel just wrote some notes down for me to speak to. Hi, my name is Senator Kolterman-- nope, wrong part. I'm just doing this to lighten the mood a little bit. The reason I want to lighten the mood is because my freshman year I had the veto override before us regarding felony voting rights. And at one point during this body through three rounds of debate, 36 different individuals voted for my bill, and on the override it fell to 25. So, one, I know how important the veto override is to many; and for two, I'm offering support to Dorn because I know that feeling. And not anybody else has really had that feeling yet, and hopefully it won't come to that too many times, but I know that feeling of standing up for something for your community and something for what you believe in. And in this case, Senator Dorn's district needs a solution to save money and to save property taxes. And they've identified multiple ways, and Senator Dorn has spent time trying to figure out those different ways, but none of them are really compatible to the two objectives of saving property taxes or lowering property taxes over a period of time and paying off this debt that was through no fault of necessarily the people in that county. I think it's important, and I stood on this floor asking for support for things in my community that we genuinely step back and say there's policy across the state, but is there a way to make sure we can help out each others communities, and this is a way to do that. Senator Dorn has reexamined other solutions, and it is clear for me talking to him this is the only way. When someone comes to this body with a crisis in their district, I think it's our duty and obligations to listen and hear that crisis, at least try to

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understand, at least have a conversation. And so I hope before you just vote no that you spent time talking to him about the due diligence he did to get to this point. Because when you hear that due diligence, you'll see that this is what's right for his district. And if something like this came along in another fashion, maybe it's a flood, maybe it's something else, that you have to come to this body and say, we need help, that we take those time to listen and figure out how to make it the best we can. And I think we did with this bill. And with that, I offer my support and I'll yield-- I'll just leave it with that. Thank you.

FOLEY: Thank you, Senator Wayne. Senator Friesen.

FRIESEN: Thank you, Mr. President. I stand in support of the motion to override. Again, we have a unique situation here that hopefully will never happen to another county again. There is a solution here. It's not an easy one. It's not a good one. He has looked at, I think, all the alternatives that he can find. And until we probably step in and change our judicial system and so that this cannot ever happen again, I mean there's opportunities for this to happen in a municipality or in a different county. When I was on the city council years ago, as I got to learn more about the processes, I found out we didn't have insurance for our police department. Hadn't had it for 20 years. Thank goodness nothing happened. Something like that could have broke the community. Things happen. There are unintended consequences. No one realizes sometimes just how important some of these things are. There was a dispute between insurance companies on who's covered, who's not. Those lawsuits have been ongoing. But, again, when you have board members sometimes that, you know, you don't have your handle on all the things that need to be done, and with staff, and then you miss things and suddenly you find out you're not covered, whatever it happens and a bad thing happened. And it happens at the wrong time, and here's where you end up. And this is a place, I think, and they're still going to solve their own problem. They're not asking us for money. They're asking us for an opportunity to task themselves in a different way that would help solve the problem and wouldn't put the burden on a minority. And I look at the ag community there, and I think they've had huge property tax increases in the past that we're still trying to address here as a body, and now you're going to dump this on top of it. We already can't compete with our neighboring states. We're not competitive at the national level with our property tax situation, and now you want to put more of that burden on the property tax owners. This is a way that gives people more of an opportunity to help contribute to pay that bill. I think it's the right thing to do, and I will support the override. Thank you, Mr. President.

FOLEY: Thank you, Senator Friesen. Senator Brandt.

BRANDT: Thank you, Mr. Lieutenant Governor. I'd like to thank Senator Dorn for bringing this bill again. We, the people of this Chamber, passed this on General, 45-0-4. We passed it on Final, 43-6-0. Twenty-five percent of the taxpayers, only Gage County taxpayers, are liable for this,

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property taxpayers. They did not get to vote on this. It is hypocritical to have \$3.8 million for the property taxpayers to be liable for this and then come back and say we want to vote on the \$1.2 million that a sales tax would raise. LB472 allows a one-half cent countywide sales tax across the county effectively allowing more than 100 percent of the people to participate. How is this possible? The out-of-county people, like myself, will go into Beatrice, a regional shopping area, and spend our money and help them to defray the cost of this. I would encourage everybody to vote green on the veto override.

FOLEY: Thank you, Senator Brandt. Senator Groene.

GROENE: Thank you, Mr. President. I fully understand that the Governor is standing on principle. I applaud him. We've always in Nebraska allowed citizens to vote on sales tax increases. LB472 creates an exception to that standard. But as I told the Governor, sayings like a rock and a hard place, and there are exceptions to rules come to mind in this situation. When I look at the situation Gage County finds themselves in today, I believe Senator Dorn has shown leadership as he has handled the hand he has been given. Creating a local county sales tax approved by this single-- for this single purpose would spread the cost out over more citizens and provide for a quicker payoff. The county could have bonded the debt with a rate, with a vote of the people, but that would have added cost to the taxpayers. The Supreme Court gave the county a generous interest rate of .004512. A bond would have been ten times the financial cost or more, four and a half, six percent, plus the cost of bonding it. This is one of those times the rock and the hard place give you little choice, and I must make an exception to my principle that sales taxes should be voted on by the people. We have no choice here, folks. Senator Dorn has created the best avenue, the most financial sound, the quickest way to pay it off. He is spreading the cost over more taxpayers, more people that will now be people traveling through his district that might pay some sales tax and help with the payment of it. It shortens the time period up to the point that this becomes the past for the people of Gage County. No, Governor, I understand your principles, and I agree with you on this on principle, but I find myself in a rock in a hard place. And I'm going to make an exception to my rule. And by the way, there might be one more when it comes to property tax relief, about raising taxes. But when you are elected, these become the times when campaign promises are meaningless and situations must be solved. And I applaud Senator Dorn, the way he managed this for a rookie senator, he has done a wonderful job and a firsthand as a county commissioner, and he has done his best to cut the cost for his taxpayers. So I will be voting red or whatever-- I'm voting against the veto.

FOLEY: Thank you, Senator Groene. Senator Murman.

MURMAN: Thank you, Lieutenant Governor. I also rise in support of the veto override. I think this situation gives us another opportunity to highlight the unfairness of property taxes in this



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state. Property tax owners would be unfairly targeted to pay off all of the judgment even though they are no more responsible for what happened in the county than all the other citizens. Using property taxes to totally pay off this judgment would be unfair, just as overreliance on property taxes to fund K-12 education in this state is unfair to property tax owners. County sales tax would be the fairest way to pay off this judgment. And I think also that Senator Dorn has explored all of the possibilities and has come up with the best way, the quickest way, the least expensive way to pay off this judgment and keep it in the responsibility of the taxpayers in Gage County. So thank you very much.

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

CHAMBERS: Thank you. Mr. President, members of the Legislature, is Senator Dorn still available?

FOLEY: Senator Dorn, are you available?

DORN: Yes, be glad to.

CHAMBERS: I would like to ask you a question or two if you will yield.

DORN: Yes.

CHAMBERS: Members of the Legislature, I'm doing this for a reason. I'm trying to show by example what I mean when I say this Legislature should function a certain way as an institution. Senator Dorn, have I asked you for anything of any kind in return for my support of what you're doing?

DORN: No.

CHAMBERS: Senator Dorn, are you aware of how much abolishing the death penalty means to me?

DORN: I've been through the years been able to watch that, and even in this last year I've watched that and then the discussion the other day on the floor, that is your most important thing.

CHAMBERS: Senator Dorn, did you vote no on advancing my bill to abolish the death penalty?

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DORN: That is correct.

CHAMBERS: Did I come to you after that vote or any time between then and now and tell you, I'm switching my vote because you voted against my bill? Did I do that?

DORN: No, you did not.

CHAMBERS: Thank you. Members of the Legislature, we keep saying this is Senator Dorn's district. You need to stop thinking about these individuals as representing a district because they really are Nebraskans. District boundaries are artificial lines on a map. These are Nebraskans, and they are facing what could be described as a crisis. So think in terms of you helping your fellow Nebraskans. You all have no idea how difficult it is for a man who is black and has lived as long as I have to have to transcend all of those negatives that I feel and say, I know what the right thing is for this Legislature to do. And when I gave that affirmation that I would discharge the duties of this office to the best of my ability, it didn't say, because I didn't have a mental reservation, to the best of my ability considering the fact that as a black man the people of my kind have been abused by the other kind, so my duty is lesser than others. I didn't have that mental reservation. Most of the people that I do things for are white. Even when I get something done that benefits the black community, such as district elections for the city counsel, the school board, and the county board, more white people are benefited because there are more white people in Omaha, more white people have been able to get into those offices as a result. I just wish that you all, one-tenth of the time, could comport yourself when it comes to action in the way I do by my actions. Words are designed to try to persuade, then convince you to act, but it doesn't work. But I try anyway--

FOLEY: One minute.

CHAMBERS: --and my actions will be what I choose to be judged by. And I will weigh the way I have acted in this Legislature when it comes to supporting legislation, when it comes to killing legislation, against the record of anybody who has ever served in this body. And you will not find anybody who had to overcome more personal negatives in order to do what I consider the right thing than the one who's speaking to you now. I just hate I only have three chances to talk because we're not going to have a chance to discuss an issue like this again in the history of this state. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Hilgers.

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HILGERS: Thank you, Mr. President. Good afternoon, colleagues. I rise in opposition to the motion. I was one of the four that Senator Brandt referenced voted no. The first time around I didn't vote for it on General and I voted against it on Final Reading. And let me start where we agree. And by the way, I think the reason I'm speaking and I'll only intend to speak once is to make sure that this is on the record. I certainly stand with Senator Lowe. I'll start with where we agree. I-- if you want to say Senator Dorn is a statesman through this process, I would absolutely agree. If you would say that Senator Dorn has worked through every option and avenue to try to solve this problem, you would have no disagreement from me. I would echo that. If you want to say that the Beatrice Six and the circumstances surrounding it were injustice, I would agree with that. If you would want to say-- if you would say that this unfair to property taxpayers in Gage County, you would absolutely have no disagreement from me. And if you were to say that you would oppose a bill or you would seek to have a bill that would allow the sales tax to be raised with a vote of the people, I would agree with you there. Because where I part company with those who have supported this bill so far is the principle that we are deviating from a principle of allowing people to vote on it. Because ultimately, as I see it and as I hear it, the rationale for this bill is-- for not having a vote is, the people will get it wrong. Now, we can articulate why this is different and we can say this a judgment and this will never happen again, but ultimately what it boils down to is we don't think that the people will vote the way that we think they ought to vote. And that if they don't vote, if they would vote it down and they would sustain-- it would be unfair burden to property taxpayers. Ultimately, that principle is one that I don't agree with because if we can apply it here in this instance, we can apply it to other instances. If we think that it's going to be unfair to property tax owners for them to only-- property taxpayers for them to shoulder the burden themselves, then we ought to believe that the people in Gage County will do the right thing if given the opportunity to vote. For that reason, I didn't support it the first time around. I agree with Senator Groene. My principles say when it comes to increasing sales tax, people ought to have the opportunity to be heard. Where I deviate is, I don't think we ought to make an exception in this instance. As they say, as an old saying, I know Senator Chambers would remember this, in law school you're taught, hard cases make bad law. And what that means is if you try to implement a law or create a judicial decision to solve one really hard case, and this is no doubt a hard case, there's no doubt about it, what has happened in Gage County, what happened to these people, what happened to the property taxpayers in Gage County, it's a hard case, it's a terrible case, it's one we never want to see, and I stand with Senator Dorn in that regard. But when-- by passing this bill, overriding this veto what we are doing is we're putting in a principle that I think would be bad law. We're saying in the instance where we don't think the people will vote the way that we think they ought to vote, that we ought to take it out of their hands. For those reasons, I did not support the bill without the Lowe amendment the first time around and I will vote red on the motion to override. Thank you, Mr. President.

FOLEY: Thank you, Senator Hilgers. Senator Lowe.

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LOWE: Thank you, Mr. President. We don't have time to be freshman senators here. When you walk in the door you are put to the task, and that is exactly what Senator Dorn did. He was put to the task and he brought forth legislation. Legislation that I don't agree with, but he did a great job. Congratulations. Maybe it's the dirty air that we're breathing in here today or that we have been breathing, but I don't know. Today, I heard where if we increase sales tax, people will come to our stores and shop. I don't think I've ever heard that. Where if we increase the price of your goods, they're going to come to shop. That doesn't make sense to me. If we don't pass this, the people of Gage County still have the opportunity to vote this in by the vote of the people. They can implement this. Let's not take it out of their hands. And I'm still puzzled by the increase in sales tax that would encourage people to spend money. We fight day and night about increasing other taxes and how it will hurt business, and yet we're not hearing that. I have faith in the people of Beatrice that they know that they don't want to hurt the outlying farm people, on the farmers and ranchers down there. I believe they will help their neighbors as it should be. Let's not have them fall back on us. Let's let the people decide. Thank you, Mr. President.

FOLEY: Thank you, Senator Lowe. Senator Morfeld.

MORFELD: Thank you, Mr. President. Colleagues, I rise in support of the motion to override the Governor's veto, along with my colleague, Senator Groene. I saw a few heads kind of look around when he said he's voting against the veto. That means you vote aye, the green button to the left. My first year in the Legislature I accidentally, during a filibuster, said the wrong way to vote, that was on a cloture motion. And one of my only colleagues that was actually listening to me voted that way and we lost it by one vote. [LAUGHTER] So I was having a little bit of flashback, so if you're voting to override the Governor's veto, you have to vote aye. We require 30 votes and I rise in support of Senator Groene's position on that in support of Senator Dorn. Thank you, Mr. President.

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

LA GRONE: Thank you, Mr. President. Senator Groene's defense, I don't think he's ever voted green before, so that's new for him. [LAUGHTER] I rise in opposition to the motion. I don't want to-- I'm not going to repeat what Senator Lowe and Senator Hilgers have said. I completely agree with them. But I did want to point out Senator Chambers is correct. This does give us an opportunity to discuss the Legislature's institution. And something I think we need to consider going forward that this gives us a moment to look at, is the fact that it takes fewer votes to override a veto than it does to overcome a filibuster. I was looking, and I could not find a single other legislative body in the country where that is the case. It is always a higher or equal threshold for overcoming a veto than it is for a filibuster, which-- so I wanted to point out that that seems to be something odd in this institution. I think it changes the checks and balances that

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are so precious and intricate for our form of government. So I hope that that next session really, not next session, next, in two years, when the Rules Committee meets again, that's something that they can look at and consider, is that the right balance? Not saying it's not. I'm saying it's something simply that we should consider. Thank you, Mr. President.

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

HUNT: Thank you, Mr. Lieutenant Governor. I voted for LB472 on each round and I'm going to vote to override the veto as well, and I urge my colleague's green vote on the motion to override the Governor's veto. I think it's important for us to understand that our vote is not going to automatically instate a sales tax in Gage County, and I think we all know that. We're just giving this county a tool to get out of a really bad situation. And we also-- it's also really easy to assume that we're never going to be in this situation again, this is a really unique situation. And I'll just remind my colleagues that if we never want to be in this situation again, the way to get out of that is to repeal the death penalty, because that's what got us into this situation here. I spoke to all the people on my floor, up on floor 11, all of my staff members and all my colleague's staff, and as well as my staff back home at my office, and we're all really excited to go to Beatrice this summer after session gets out and go get some food and go shopping and visit Gage County and see what it's all about over there. So you're going to have some city slickers in your county this summer and we all look forward to supporting you. So thank you, Senator Dorn, for doing the hard work for your community. That's what we're all here to do. And I know you're doing something really difficult, and I admire that a lot. And I admire the consistency in my colleagues who are here to support you. So I urge your green vote and I'll yield the rest of my time to Senator Chambers.

FOLEY: Thank you, Senator Hunt. Senator Chambers, 3:30.

CHAMBERS: Thank you, Senator Hunt. Thank you, Mr. President. Members of the Legislature, I've studied Senator Hilgers and I could have told you how he was going to vote. And I'm going to make a prediction. The Legislature's not the last stop on his political ambition tour. I want that to sink in. He is correct. The U.S. Supreme Court itself said, and a justice who gave it in his speech is Oliver Wendell Holmes, Jr., pointed out that not only hard cases but high-profile cases make bad law. And this is why, as I pointed out, but Senator Hilgers wasn't really listening, there are some situations where the court will say, we are not saying definitively how this type of situation will be handled in the future. We take it on a case-by-case basis. This case is not precedential in the sense of binding or influencing the court to rule this way should a similar case come before the court. The court has always refused in all of the decades that the Eighth Amendment to the U.S. Constitution has been a part of the constitution. They have refused to define precisely what that phrase means, how far it reaches, the kinds of situations that will be

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covered, and they point out that the facts of each case will determine whether or not the Eighth Amendment will apply to that case. This language does not say that a county board, by a majority vote of the members, can levy a tax like this without a vote of the people. The first hurdle is that you must have a 25 at minimum. A \$25 million judgment against the county, and that's not enough. It must be a judgment rendered by a federal court. If anybody on this floor said they thought that was going to happen again in Nebraska, I'd say that person is crazy or is an outright liar. Is an outright liar. Everybody on this floor knows that we're not going to have another situation like this.

FOLEY: One minute.

CHAMBERS: I don't mean where the death penalty will be misused to extort a plea, but where a \$25 million judgment will come down. First of all, you're not going to have lawyers who would continue these multiple appeals knowing there was no way to win. They handled that case so poorly, and damaged their clients so much. What they did bordered not on zealous representation, but professional misconduct. Part of that bill that the county must pay goes to these lawyers. The courts even got tired of it. One of the times they came before the Eighth U.S. Circuit and they said, yeah, we're very similar with this case. That's one of the things, which if Senator Hilgers paid attention to anything, he would know, and it's not likely something like this will happen again.

FOLEY: That's time, Senator.

CHAMBERS: Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Clements.

CLEMENTS: Thank you, Mr. President. When LB472 came up I pondered it and I very reluctantly voted yes, but I didn't really like it. The precedent of the Legislature allowing a sales tax without a vote of the people was a real problem for me. When the condition of a \$25 million federal judgment was added, I liked that, but I was still concerned. I couldn't think of any examples that-- where that would happen. Senator Chambers is assuring us that it wouldn't ever happen. I was thinking about Omaha Public Schools and Omaha City Retirement Plans that are hundreds of millions in liabilities short, wondering if they could end up with a federal judgment. It's doubtful, but pensions are governed by federal laws, so I couldn't think of an example at that time, but-- and I still don't, but I --so I voted yes at that time, but still one could come about which would be a concern. And I heard-- I did hear about 20 percent of the sales tax in Gage County would probably be paid by nonresidents, and I hope the voters will vote for a county sales tax. But I'm voting no today hoping that they will do that, but because they need a chance

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to do that. And this, I had made my own decision. It's not from pressure from the Governor. It's my own decision where I have talked to him before and told him I'm voting my own convictions. And I urge your red vote and it is a rock and a hard place. Senator Groene came down on one side of the hard place and I came down on the other. And thank you, Mr. President.

FOLEY: Thank you, Senator Clements. Senator Groene.

GROENE: Thank you, Mr. President. I thank Senator Morfeld for helping me clarify my earlier statement. As a politician, I'll never say I made a mistake, but I'll clarify it. [LAUGHTER] But I'm going to vote green on the veto override to make sure everybody understands. One more point I'd like to make why this is fiscally sound decision too by Gage County. If they take it to a vote of the people, we're a year and a half down the road. We fall behind another year and a half, they do. There's a cost to an election that adds to the entire cost of the burden to the people of Gage County. This will expedite it, this decision by the county commissioners. It will get the payments on track quicker and the debt paid off sooner. So there's another reason why this exception makes sense. But I will vote green as the Speaker straightened me out, and Senator Morfeld did, and also thank you, my colleagues, for doing that. I appreciate it.

FOLEY: Thank you, Senator Groene. Senator Blood.

BLOOD: Thank you, Mr. President. Fellow senators, friends all, I stand in full support of Senator Dorn's motion to override the Governor's veto as well as the underlying bill. So on the day that it happened, I spoke to Senator Dorn, and I would ask that perhaps he yield to a question, Mr. Speaker.

FOLEY: Senator Dorn, will you yield, please?

DORN: Yes.

BLOOD: Senator Dorn, do you remember that conversation? I know you had a lot on your mind that day.

DORN: No, I do not. I remember you talked to me, but I don't remember the conversation.

BLOOD: Well, I'm going to have to work harder to make an impression. Thank you, Senator.

DORN: Well, there was too many other people talking to me.

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BLOOD: No worries. I'll take it from here, then. Thank you, Senator. So specifically statute 18-1208 was the one that I had talked to you about, and that is in reference to occupation tax. In the city of Bellevue, we've had a lot of hurdles. I always tell the story and you've heard it multiple times and I'm sorry, I'm going to bore you to death and say it again. But when I came on to the council, we were \$10 million in the hole, which seems like nothing, really now, when we talk about the state budget. And we had no rainy day fund. Within two years, we had turned that around. We had done several things to make sure that our fire department was going to be funded, and for some reason after several of us left the council, all the plans went by the wayside. All of a sudden they needed to do things for the fire department and they couldn't figure out where to get the money. And one of the discussions that we had had was in reference to the restaurant tax. And so the restaurant tax in the state of Nebraska can be done by municipalities depending on, you know, are you a metropolitan city, are you a primary city, or are you a village the levels change. But anything above \$6 million needs to go to a vote of the people. Anything below can be done by a municipality without a vote of the people. So the reason that came to mind was in the Governor's response that Nebraska has traditionally not allowed subdivisions to impose new taxes without a vote of the people. I would counter with statute 18-1208. And that is not to say anything negative about the Governor. It is to question that statement, and I feel that we can show in statute that this does happen for good reasons because that restaurant tax can be utilized to help municipalities without having to constantly go back to the citizens for more taxes. Senator Slama and Senator Morfeld have both done a really effective job of talking about how much special elections can cost or how ballot initiatives can cost because it also, unfortunately, can invite in outside interests, special parties, who happen to have more money. And so, although we say, well, we don't trust that the will of the people that they'll vote in favor of this or they won't vote in favor of something. You know, if we could keep special interests out of a vote like that, I think the people would vote for what was right, but we can't guarantee that, and we've proven that over and over and over again in Nebraska. And no matter which side of the aisle that you fall on, there are examples from every party, every special interest group, and we can list many, many ballot initiatives that have gone one way or the other because more money was put into it. But the bottom line for why I support this is that, first of all, I have deep respect for Senator Dorn. And Senator Dorn has learned an important lesson that a lot of senators have yet to learn. And you've heard me say it. I don't represent District Carol, District Blood. I represent District 3. And you hear me fight very hard for Sarpy County, you hear me fight very hard for District 3 because that is who I work for. Do I work for all Nebraskans? I certainly do, but I'm the voice of District 3. Senator Dorn, you have done an exceptional job being the voice of your district, of District 30, and that's what we're here to do. And it's not an awesome thing to have to stand up to a Governor as a veto--

FOLEY: One minute.



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BLOOD: --but you are doing it with grace and with honor, and I fully support that. Again, I am in full support of both the motion to override the veto and Senator Dorn's underlying bill. Thank you, Mr. President.

FOLEY: Thank you, Senator Blood. (Visitors introduced.) Senator Hilgers.

HILGERS: Thank you, Mr. President, and good afternoon again, colleagues. I appreciate the comment Senator Chambers made, and I think it was a good conversation to have and I want to clarify what I was saying. As Senator Chambers often says, we make a record here, and to my point I think this is something that future Legislatures may look back upon. I want to make sure the record is clear. So the point that I was making is not that there is a good likelihood that there will be another judgment down the road that if this-- if LB472 becomes law that in some time in the future there will be-- this will be abused somehow because there will be some other judgment that will have to be paid and there won't be a vote from the people of Gage County, or wherever that particular county that there might be a judgment. That's not my point. When I say hard cases make bad law, what I'm referring to is not this specific law could-- this law could be abused in the future. My point is, is that what we're doing is establishing a principle within this body. And the principle, as I see it articulated, and if I've misinterpreted the arguments being made, then please clarify for me. But as I've heard the argument it is, hey, look, everyone it seems, I think this body would agree, maybe it would be 49-0, to allow the citizens of Gage County to vote on a sales tax in order to help pay this judgment. The argument that I'm hearing is, well, that is not something that we should let people vote on because we're concerned that they won't do the right thing. The right thing being by implication, instituting the increased sales tax. That principle by voting for LB472 for me, if I'm to vote for LB472, what I'm saying to me, is that I'm agreeing with the principle that in some circumstances it is OK to take the vote away from the people, to increase their own sales taxes, when I don't think they're going to do the right thing. Now you could say, well, this only limited to a judgment. That principle applies in a whole lot of other circumstances. You could imagine and say, well, people aren't going to vote for a sales tax increase when our roads are really bad. Or people aren't going to vote for a sales tax increase because they don't want a new courthouse, or they don't want something else. They're not going to make the right decision, and this is really important. So because it's really important and because they're not going to make the right decision, we ought not allow them to vote. That ultimately to me is the principle being articulated. Now this is an extreme case. I can see it. In all likelihood a case that will never be repeated again. But that's what hard cases make bad law boils down to. The hard case will probably not be repeated again. But the principle that that case sets could be repeated again. And in my view, the reason I can't vote for LB472 is because at the end of the day I don't think it's efficient to say that I will agree taking the vote out of the hands of the people because I don't think they will make the right decision. That is what I'm articulating. Not that LB472 itself, if put into law, would be itself abused, but the broader principle that is at stake. Again, I thank Senator Dorn and all the work that he's done. I commend him for all the work and

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I feel bad being on the other side of him on this, but I have to stand on principle. With that, I'd yield the rest of my time to Senator Chambers.

FOLEY: Thank you, Senator Hilgers. Senator Chambers, 1:45.

CHAMBERS: Thank you, Mr. President. Thank you, Senator Hilgers. Senator Hilgers and I did have a chance to discuss this, and I mistook what he was trying to say when he used the expression hard cases make bad law. I'm not going to go through all of that because it will take all of my time. But the one thing I do want to say is that the Legislature is to make certain decisions because it is a Republican form of government, and not everything is put to a vote of the people. The Supreme Court itself had said, some principles are so important they should not be left to the vicissitudes of elections or opinion polls. In other words, the governmental entity is to take the action and do the right thing. That's what we're doing here. We're not changing any general law with reference to how sales taxes are to be handled. This is one thing, one of a kind. It has been set aside, and has been hedged about in such a way that it is not going to be done again, and I would bet anybody any amount of money that such is the case, and I don't think that there's anybody on the floor who thinks that this particular set of circumstances-- read what Senator Dorn's bill says to find out what those circumstances are. And you'll see that it's not going to arise again any more than you can say donkeys will fly. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. (Visitors introduced.) Senator Vargas.

VARGAS: Thank you very much, President. Try to keep this short. First, I am in support of the override for Senator Dorn, and I want to give a little context on that. And then I also want to react to something that Senator Blood mentioned because I think we're dealing-- we're dealing with nuance here a little bit. I think it's easy to say we come in here and there's a principle value or reason that which we apply, and I'm going to shout out to Senator Groene, he may not hear me on this, but his rationale for how we got to this place for supporting the override is sound. It is pragmatic. It is very clear. There are sometimes exceptions to the rule, and that's OK. We deal with them all the time. And in this instance, I think there's a clear exception to the rule, and that should be saying a lot because I introduced the bill to have us go to a vote of the people for cell phone taxes. And if you remember from some of my testimony and my rationale is that a very specific tax was getting a little out of hand. It was being used for a lot of wants. There was a lack of transparency and a lack of accountability. It was being passed and applied to funds, and it was being added to budgets and unnecessarily. I was seeing a potential solutions to the problem. More transparency for taxes that we're getting to a place that were too high. And what we saw in the reference that Senator Blood said that there are different classes of where you can tax, but the reason that exists is actually because of some negotiations on the same reason. But the point I'm trying to make about these occupation taxes is, they were added to wants and needs from

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municipalities. There's a lot of things that they have to provide revenues and tools to then address something at the municipality level. This is a very unique circumstance. It is a very clear prerogative and purpose for these funds. There is a clear end-date to it. It is not the only tool being utilized. It is a tool. There's not a recent memory. Actually Senator Lindstrom brought a bill to try to provide a tool to Omaha Public Schools with its pension woes. We are here to debate, and I urge you to move forward on this override because there are not a lot of tools left in the toolbox for your county, Senator Dorn. And even though we can very easily apply a value statement and say that we're always this way or this way, I'm telling you that's not the way I'm going to vote because the practicality is, this is an extenuating circumstance that warrants a new tool and warrants an exception. So with that, I stand on the override, and I ask you to consider that we've had significant debate on this. It's the right thing to do to provide another tool, not a panacea to this problem. And I want to thank Senator Dorn for his pragmatic approach for this. Thank you.

FOLEY: Thank you, Senator Vargas. Senator Hilgers, you're recognized, your third opportunity.

HILGERS: Thank you, Mr. President. I'll be brief. Just a follow up on the conversation that I had with Senator Chambers. I don't disagree with what Senator Vargas said. In fact, I don't disagree with, I think, every argument that's been made for the increase in the sales tax. What I disagree with is that we are deciding it, we are giving the power to the board to decide and we're not allowing people to vote. Ultimately, I think that's the principle that I can't agree with. And how this would work out, by the way, you might say, well, this is a hard case. It will never happen again. This is a judgment, it's \$25 million. No, this will never happen. Well, how this things works in a courtroom, and I know we're not in a courtroom, but this is how this things start. Once you make an exception, the next person who wants to apply that exception to another context will say, hey, look, well, we've used it over here. In this instance we made an exception. So what's the harm with making-- we'll just make an exception here. We'll just make another exception, that's OK. We'll expand the application, the exception. That's how this works, and so when I say hard cases make bad law we're saying here today we don't think that the people are going to make a good decision, therefore, let's do it for them. I just won't predict that will be used sometime down the road in another context, and it won't be judgments. It will be something different. And ultimately, I think we have to draw a line-- in my view I have to draw a line. That's why I'm voting against it. By the way, I would say, there might be some instances where you might want to do something different, and that might be to Senator-- maybe it's Bostelman's point, about the timeliness. If you had an emergency where time was of the essence and you had to act immediately within a month or two and you didn't have time to wait for a vote, maybe that would be an instance in which you could say, we just don't have time to act. But in this case, this is a judgment that one way or the other it's going to be paid out over a number of years, and this is not going to materially speed it up. It's not an emergency of that kind. It's a significant issue.

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It's a significant issue for Gage County and the residents, but we ought to let them vote. With that, I'd yield the rest of my time to Senator Chambers.

FOLEY: Thank you, Senator Hilgers. Senator Chamber, 3:00.

CHAMBERS: How long?

FOLEY: Three.

CHAMBERS: Oh, thank you, Mr. President. Thank you, Senator Hilgers. And the way Senator Hilgers and I are dealing with each other lets you know we have an understanding. If something is misunderstood on the floor by either of us, we will talk it out and then go on the record to make clear what it's all about. One group who should not be forgotten in this are the victims of the injustice, the official injustice. They have to be considered too. I would touch on what Senator La Grone said about it taking more votes to end a filibuster than for the Governor to override-- to override the Governor. The Governor's one person. He's the executive branch, and that one act of his does not hinder what he or she could do in any other situation. When we cut off debate, we're saying that the Legislature can no longer function as a legislature. There can be no amendments. There can be no motions. There can be no discussion, so when you're going to take the drastic step of cutting off the ability of the Legislature to legislate, and you don't understand why there are more votes than that, you don't understand government. So I'd suggest that Senator La Grone do some reading about legislatures and why they're constructed the way they are. But another thing he failed to look at, other legislatures have two houses. We have one. When you vote to cut off debate here, that ends the debate period, not where there are two houses. So these things will get by those who don't think deeply. Now, I would say this last thing. I told Senator Hilgers that if another one of these situations arises where you have a \$25 million judgment minimum imposed by a federal court, you won't have to do this again because I will pay off that judgment myself. Thank you.

FOLEY: Thank you, Senator Chambers. Senator Albrecht.

ALBRECHT: Thank you, President Foley. I do rise to, first of all, let Senator Dorn know that I do applaud him for what he's doing for his county and sitting on the county board and understanding the situation that they're in is certainly difficult at best. And I think about the people that live in Gage County. They're the victims too. They're the victims of this cost over several years. But at the same time, I am principled in this sales tax increase. It will be for a longer period of time if the vote of the people, if they were to not vote for this tax increase. But at the same time I can't imagine that this isn't the talk of the town, this isn't the talk of the coffee shops, this isn't-- but for the citizens of that county to think it would be OK just to put it on

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property tax, I do believe that they should take it to the vote of the people, and, you know what, it might be shot down at one time, but once they realize that they aren't going to have a lot of the nice amenities that you would normally have in a county, you may very well understand that you have to take it to the vote of the people a second time so that they understand that, you know what, we've got to figure out how to get this paid off quicker. And to do that, if they know that there's a time limit on it, you know, this judgment, I'm not exactly sure how long it has been out there, but if they're already at the max limit on their levy, these farmers are already paying-- and even the folks in town. I understand. You know, we farmers outside of the big cities always feel like there's so many more of them than there are of us and that we would automatically think that there would be, you know, an override that there's so many of them and if they say no we're going to have to pay it anyway. Well, I just am very principled that if the people say no, no, means no and you'll have to deal with it. You know, we just dealt with the NRDs on LB177 and when the people said no, they need to figure out what else to do. But when we, as a body, feel like we are so much more in control of doing something over the vote of the people, they are the second house. They are the ones that we too answer to. And I just-- I was a yes in the beginning because I was hearing Senator Dorn's heart on this, but it is business and it is the fact that these attorneys are pressing hard on that county that they want their judgment paid and they want it paid now. Well, that's well and good, but the people of that county have to be involved because they are. I mean, you live there, either move out or you're going to have to pay your share. But it's going to be on the homes and the farmers for a long time. I heard Senator Dorn talk about one gentleman. One farmer is going to pay over \$100,000 over this period-- 100,000, \$100,000 over this period of time. That's a lot of money. But you know, those stories need to be told and then the people need to go vote on their own sales tax for that area so that they hear the hearts of everyone and not just five people on a county board that can make that decision. So I rise with a red light. I would like to see it go to the vote of the people and not put it on this body. You know, we've got a lot of things to talk about here in the next 20 days, and one of them that I think about is the teacher. The teachers in Omaha. I mean, they were not in control of what happened to their retirement, but are they going to come back to us and ask us to try to, you know--

FOLEY: One minute.

ALBRECHT: --make that particular problem that they're in right with them? Is it the citizens of Omaha that we need to take care of to make sure that we make them whole? I mean, things do happen, and they will continue to happen. But I do feel that, I think the people of that-- that Gage County should take it to the vote of their people and work through it that way. So, that's fine. Thank you.

FOLEY: Thank, Senator Albrecht. Senator Dorn, you're recognized to close on your motion.

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DORN: Thank you. Thank you very much. Thank you, colleagues, for the discussion today. As most of you know, this bill has gone through all three rounds. It had a public hearing in front of the committee, and we had a lot of discussion on this in the last, probably, two, three months. I stand in closing today though to encourage you to vote in favor of the motion and override the Governor's veto of LB472. This bill, LB472, will give some tax relief to the property owners in Gage County and will help pay off this judgment sooner. Many of you have had discussions with me about a loan from the state and an effect the loan would have. This would not solve the problem of where the money would come from to pay for this judgment. It still would be paid 100 percent by property tax. I pray that this state never has a situation happen like the Beatrice Six again. I pray no person ever has to go through what the Beatrice Six went through. And I pray that a county never will go through anything like this again. This bill cannot correct all those things. It can help pay off the judgment with something besides property taxes. I ask for your green vote on the motion, and I want a call of the house in reverse order.

FOLEY: Thank you, Senator Dorn. 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: 31 ayes, 7 nays, Mr. President-- 8 nays to place the house under call.

FOLEY: The house is under call. All senators please return to your desk and check in. The house is under call. Senator Cavanaugh, check in, please. Senator Groene, check in, please. All members are present. The question for the body is whether or not to adopt Senator Dorn's motion to override the Governor's veto. A roll call vote in reverse order has been requested. Mr. Clerk, please call the roll.

CLERK: (Roll call vote taken.) 41 ayes, 8 nays on the motion that LB472 become law, notwithstanding the objections of the Governor.

FOLEY: The motion is adopted. I raise the call. All provisions of law relative to procedure having been complied with, I do hereby sign the motion. Members, we'll return to the agenda where we left off, but first we'll do items for the record.

CLERK: Mr. President, Revenue Committee, I believe, I think they're meeting in an Executive Session in Room 2022 now; Revenue now in 2022. The amendments-- I have amendments to be printed to LB334 and LB334A. Mr. President, returning to LB901-- I'm sorry, LB149. AM901 is the committee amendment. LB149 by Senator Quick. I now have pending an amendment from Senator Quick, FA62.

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

QUICK: Thank you, Mr. President. Good afternoon, colleagues. So over the time we had off to work on Senator Dorn's veto override, I sat down with-- talked with Senator Wayne and some others who were opposed to some of the language in my bill, and so I agreed to remove the language that would-- to include the Nebraska Clean Indoor Air Act. I think it's important for me specifically to make sure we can address the issues that we're facing in our schools. So, I'm OK with the age of 19-- going to the age of 19, and then also having them licensed and regulated by the state of Nebraska. I think going forward we can work on it in the future on how we can help with some of the areas where they want to have a vape store that can-- or a place that they would be able to build a vape, so. But removing the Clean Indoor Air Act will help remedy, and I think I will-- that will help pass the bill forward. And I think that's the most important thing to do right here, just so we can help our children. That was my main objective with this bill. And so with that, I hope everyone will vote green on this amendment, as well as AM901, and also on LB149. Thank you, Mr. President.

FOLEY: Thank you, Senator Quick. Is there any discussion of the amendment or the bill? I see none. Senator Quick, you're recognized to close on FA62. He waives closing. The question for the body is the adoption of FA62. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of the amendment to the committee amendments.

FOLEY: FA62 is adopted. We're back on LB149 with the pending committee amendments. Is there any further discussion? Senator Briese, you're recognized to close on the committee amendment, AM901.

BRIESE: Thank you, Mr. President. And I'm generally supportive of AM901. I'm good with raising the age to 19. I believe it's narrowly tailored to meet what I perceive is the original objective of the bill and that was to reduce vaping use among young folks, especially in our schools. The ends definition is solid in there and reasonably good legislation, I'll support it. I'd ask for your support also of the amendment. Thank you.

FOLEY: Thank you, Senator Briese. The question for the body is the adoption of the committee amendment, AM901. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

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

FOLEY: AM901, committee amendment is adopted. Continue discussion on the bill as amended. Senator Clements.

CLEMENTS: Thank you, Mr. President. Would Senator Briese yield to a question?

FOLEY: Senator Briese, would you yield, please?

BRIESE: Yes.

CLEMENTS: It's been a long discussion with a lot of different issues back and forth and can you tell me if this bill passes now, what age will be the legal age for smoking and vaping?

BRIESE: 19.

CLEMENTS: Age 19.

BRIESE: Yes. Yes.

CLEMENTS: All right. Thank you.

BRIESE: Senator Wayne in his amendment, he had a provision in there to grandfather in those that attain age of 18 prior to the operative date of the bill. That's no longer in there. Possibly something to consider on Select.

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

FOLEY: Thank you, Senators Clements and Briese. Senator Quick, you're recognized to close on the advance of the bill.

QUICK: Thank you, Mr. President. So, I hope you all vote green on LB149. I would ask you to. And at least we can help keep these products out of our children's hands by raising the vaping age, or the age that they can purchase these products, and also, they'll be licensed and registered in the state of Nebraska. So with that, thank you, and I urge you to vote green on LB149.



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FOLEY: Thank you, Senator Quick. Members, you heard the debate on LB149. The question for the body is the advance of the bill to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 40 ayes, 0 nays, Mr. President, on the adoption of the motion to advance the bill.

FOLEY: LB149 advances. Proceeding on the agenda to LB532.

CLERK: Mr. President, LB532 is a bill originally introduced by Senator Cavanaugh. (Read title.) The bill was introduced on January 22, at that time referred to the Judiciary Committee. The bill was advanced to General File. I do have committee amendments, Mr. President.

FOLEY: Thank you, Mr. Clerk. Senator Cavanaugh, you're recognized to open LB532.

CAVANAUGH: Thank you, Mr. Lieutenant Governor. Good afternoon, colleagues. I'm proud to bring you LB532. I am incredibly grateful to Senator Hilkemann for prioritizing this bill in the Judiciary Committee; to the Judiciary Committee for voting the bill out unanimously; and to everyone who played a part in making this bill a reality. This bill cleans up, clarifies, and streamlines the statutes guiding issuance of protection orders. The bill's primary intent is to provide more clarity in the process for victims who often pursue these protection orders without the assistance of an attorney and also for the court system so they can make life-- these life or death decisions with the best information to guide their deliberations. A common question in the work to support victims of violence-- why didn't she just leave? With domestic violence, a disruption-- disruption and a feeling of control for the abuser is the most dangerous moment for the victim. Survivors of domestic violence and sexual assault by sexual violence report that the decisions to leave an abusive relationship often escalates physical violence, as well as mental and emotional abuse from the offender. In particular, the time period directly following a victim's decision to leave an offender is the high-risk time period for homicide. Since a victim's choice to leave a violent situation creates a particularly high risk of future violence, protection orders are absolutely critical to helping victims access safety for themselves and their family. However, protection orders will not be effective if survivors aren't presented with an understandable and clear process to obtain an order. LB532 seeks to make the process as clear as possible for survivors to protect themselves and their families, but also to support the courts to have the information they need to offer appropriate measures of safety and protection to such victims. This bill was drafted with input from those who work directly to provide legal assistance to victims of domestic and sexual violence as well as experts and best practices for systemic responses to such violence. The type of protection order a victim will seek depends upon the specifics of their situation, and the legal basis differs for issuing these orders. There are three primary types of protection orders: harassment protection orders, sexual assault protection

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orders, and domestic abuse protection orders. I have included a fact sheet with a brief explanation of the types of protection orders that the pages are passing out. Additionally, they are passing out articles about a recent incidence of a dismissed protection order without an explanation, and they are passing out what the dismissal looked like. Often survivors of violence feel they cannot leave abusive situations out of fear for their own safety or that of their children and other family members. Protection orders are often the first attempt by survivors to seek legal protection from their abusers. This can be a terrifying and dangerous time for survivors as it represents taking back control of their lives from their abuser. For victims, a protection order is more than a piece of paper. It is a plan and a path for safety for themselves and their children. When a victim courageously speaks up and asks for help, we must ensure that they are heard and that the process is as simple and clear as possible. Someone's life could depend on it and often does. One of the examples being handed out indicates that. And I would like to share with you the story of Janet and Amanda from their-- Janet's sister Pam, who is here with us today. Dear Senators, I'm writing regarding the protection order bill, LB532. My family has been deeply affected by the current law that denied my sister, Janet Franks-Bohm, a protection order and hearing. She was denied without any reason or help to further her claim. Janet believed her estranged husband would set their house on fire and include that in her-- and included that in her request for protection order that was dismissed by the court without an opportunity for her pleas for safety to be heard by a judge. On February 25, that's exactly what he did with Janet and their daughter Amanda standing next to him, trying to get the lighter away from him. I believe the current system failed them and others just like them. We need to change the law so every person can have a hearing to determine if a protection order should be granted or not. There should be an ability to follow up to their request for help. I cannot for the life of me understand why a judge would deny Janet's claim. I believe if the judge would have heard Janet in court, she would have given the protection order and the fire would not have happened. The police were called to Janet's home that night and the police left him there after they heard the abuse he did that night. Within an hour, the house was set on fire. With a protection order, he would have been taken to jail and not allowed around them. They were afraid and they tried to reach out for help from our legal system who ultimately let them down. If our legal system cannot help them or protect them, who can? Now Janet is suffering third-degree burns on 60 percent of her body. She's in critical condition after six weeks and has gone through multiple surgeries with many more to go. She's unable to move-- to talk or move. This is heartbreaking and painful for the entire family. Please help families like mine so this never happens to anyone ever again. Sincerely, Pamela Sorgen. Thank you, Pamela, for your words to this body today, and thank you for being here today advocating on behalf of your sister and other victims. I have given you all a copy of the order dismissing Janet's petition without a hearing. I would like you to look at the section where the reason given for the dismissal is-- it's blank. There's nothing to tell Janet why it was dismissed, nothing to tell her what her next step was-- what her next step was; nothing to tell her how she could keep her daughter safe. Janet and Amanda deserve better than that, and not just them.

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There are so many survivors of domestic and sexual violence through Nebraska who need help this bill offers. I ask for your vote on LB532 and the committee amendment. Thank you.

FOLEY: Thank you, Senator Cavanaugh. (Visitors introduced.) As the Clerk indicated, there are amendments from the Judiciary Committee. Senator Lathrop, you are recognized to open the committee amendment.

LATHROP: Thank you, Mr. President, and good afternoon, colleagues. The Judiciary Committee voted to amend AM532, pardon me, LB532 with AM674 and advance the bill on 8-0 votes. AM674 replaces the original bill. There are three main changes in the amendment. The most significant change is to remove the requirement for evidentiary hearings on all harassment protection orders. The other two changes rework language to reclarify that any petition dismissed without a hearing is to be dismissed without prejudice, and that the petitions and affidavits are to be admitted into evidence at show cause hearings. With that, I would appreciate your support of AM674; and I would encourage your support of LB532 as well. Thank you.

FOLEY: Thank you, Senator Lathrop. Debate is now open on LB532 and the pending committee amendment. Senator Hilkemann.

HILKEMANN: Thank you, Mr. Lieutenant Governor. I prioritized LB532 because I believe it supports the safety and protection of individuals and families who are victims of violence. Prior to the session, I had the opportunity to meet with a constituent whose sister was a victim of prolonged harassment and violence. She was tragically shot and killed by her abuser in a murder-suicide in May of 2018 in Lyons, Nebraska. Her brother reached out to me out of a desire to improve our legal system so that it can offer better protection for victims of violence who are scared for their safety and that of their family. In Omaha, we have seen a very recent example of a victim requesting protection from the court system and having that request denied to a tragic result. Janet Franks-Bohm's husband, Carl Bohm, set fire to their home with she and her daughter still inside. In February 2019 of this year, Janet had requested a protection order on behalf of herself and her 17-year-old daughter without any opportunity to speak to a judge. In Janet's request for a protection order, she specifically expressed a fear that her husband would burn the house down. In previous occasions, he threatened to burn down the house. On several occasions he told me, I can kill you. I will chop your hands, feet, and head off so that they cannot identify the body when it is found. And yet the request for a protection order was denied. On the night of the fire, Omaha Police Department had been called to the house for a disturbance. However, Carl Bohm was not removed from the home by the police because there was no protection order in place. Investigators believe 65-year-old Carl Bohm started his family's home on fire just after midnight with his wife and 18-year-old daughter inside. Janet's sister is also a constituent of mine and wrote to me that Janet is suffering from these third-degree burns over 60

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percent of her body. She struggles every day to survive. She's still in critical condition after six weeks and has gone through multiple surgeries with many more ahead. She's yet unable to talk or move. Janet's sister wrote me they were afraid and they tried to reach out for help from our legal system, who ultimately let them down. If our legal system cannot help them to protect them, who can? For me, LB532 represents strengthening a path to safety for victims of violence, and that is why I have chosen to prioritize this important bill. Thank you, Mr. Lieutenant Governor.

FOLEY: Thank you, Senator Hilkemann. Senator Slama.

SLAMA: Thank you, Mr. President. I will be brief with my comments. In short, this bill with the committee amendment clarifies, simplifies, and strengthens the process of getting legal protection if you are a survivor of harassment, domestic abuse, and sexual assault. It also streamlines the process for the courts by providing the court with information needed to make the determinations necessary and unifies the processes among the three different types of protection orders. The handout provided by Senator Cavanaugh is very helpful in explaining what this bill does. This is a necessary and well-written bill. I commend Senator Cavanaugh for her efforts on this bill. And I encourage a green vote on both LB532 and the committee amendment, AM674. Thank you, Mr. President.

FOLEY: Thank you, Senator Slama. Is there further discussion? Speaker Scheer.

SCHEER: Thank you, Mr. President. It's not often that I get up and speak on a bill, and I was back here reflecting on my own history. My wife worked-- volunteered for a number of years for a place for women to go from domestic abuse. And Kris was a nurse and had met a young lady at the hospital in Norfolk, became good friends. She was married to an individual. They had three small children. Probably at the time of the incident, I would guess the oldest daughter was maybe 10 or 11 years old, the youngest was 5 or 6. And she tried desperately to leave, and he continued to make threats. And she was afraid that if she left that her children would be at risk, and she couldn't afford to do that. And one night, I believe it was a Thursday night, we got a call from a friend that Kris and she went over to the home to pick up the children because he had killed this young lady, her husband. They didn't know where he was at. He had took off. He left the children in the same home as the body. The children were taken to their grandparents in a small community by Norfolk, and they did not find the individual for a period of days. And he was finally found on a farm south of Pilger. He had hung himself, cowardly act after he took the life of a young woman. There are important issues that we face, and there's a lot that we can all agree on. There's some that we won't agree on. But certainly this is one that does touch me in this position that I felt compelled to stand today. And in honor of her, I would wish that we move forward with this bill. Thank you, Mr. President.

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

BOSTELMAN: Thank you, Mr. President. Would Senator Lathrop yield to a question?

FOLEY: Senator Lathrop, would you yield, please?

LATHROP: Yes, I'd be happy to.

BOSTELMAN: Thank you, Senator Lathrop. We were talking off the mike here a second ago. The question comes back to our western part of the state, the circuits as they come around. I think it's on page 8, line 13 that we're talking about. Is that correct?

LATHROP: That's right.

BOSTELMAN: And we're looking at a 14-days requirement in there. Just making sure that this is not something that would affect the circuit-- the court that's out there, that we're taking a look at that. That if that needs to be changed, if that if-- if that does cause problems for the court that you're willing to address that. Is that--

LATHROP: Yeah. So your question relates to if a sexual assault protection order is not issued ex parte, then the court shall immediately schedule an evidentiary hearing to be held within 14 days. Your concern, as I understand it, is out in western Nebraska when they are riding the circuit, are they around every 14 days so that they can actually schedule a hearing in a timely and compliant fashion? And that I'll check on before Select File. It's a great question. I assume that the judges are in town. But if they're in one county trying a jury trial and they don't get over to Cherry or Morrill County or somewhere else frequently enough, I will make sure that's not a problem.

BOSTELMAN: OK. Thank you. Thank you, Mr. President. I yield the rest of my time back to the Chair.

FOLEY: Thank you, Senators Bostelman and Lathrop. Senator Lathrop, you're recognized to close on the Judiciary Committee amendment.

LATHROP: Thank you, Mr. President and colleagues. This is an important bill. And I had some questions off the mike. Before we start doing protection orders, like the police would show up, a husband and wife are getting a divorce, and the husband is standing out in the front lawn and he's banging on the door, and the police would basically say, OK, ex-husband or soon to be ex-

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husband, go on home. You know, you need to leave. They really didn't have any hammer or any way to intervene in that domestic dispute in a meaningful way. When protection orders came along, it allowed law enforcement to say I'm taking you in. You've just violated a protection order. So this is an important step in protecting people in these three different circumstances. What LB532 does and AM674, the amendment, is it takes care of some holes that we have seen. When one of these things, basically what happens is people go in without the help of a lawyer, they fill out a form, it's put in front of a judge. And if a judge doesn't see that all the right things are in the form, the judge will simply say, denied. And the person who asked for it really doesn't have any information on how do I do this better. What this amendment allows in LB532 is you get another chance. You are not dismissed with prejudice, but without prejudice, which means you still have an opportunity to come back, clean it up, typically with the help of somebody like the Women's Fund or one of those types of organizations. And you put in the kind of information the judge really needs to see in order to grant one of these, and then it gets better. I think this is a good addition, a good amendment to the existing law in protection orders. I would encourage your support of AM674 and LB532. Thank you.

FOLEY: Thank you, Senator Lathrop. Members, the question before the body is the adoption of the Judiciary Committee amendment, AM674. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 41 ayes, 0 nays on the adoption of committee amendments.

FOLEY: Committee amendments are adopted.

CLERK: Senator Cavanaugh, I had AM54, but I understand you wish to withdraw that.

CAVANAUGH: Yes.

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

FOLEY: Thank you. Is there any further discussion on LB532? I see none. Senator Cavanaugh, you're recognized to close on the advance of the bill.

CAVANAUGH: Thank you, Mr. Lieutenant Governor. So last week, Senator Howard talked about how this body is a family. Sometimes we agree and sometimes we don't. But today I am grateful and I am proud to stand with all of you on this very important piece of legislation. Unfortunately, sometimes it takes horrible things to get us to change things to make them better. Speaker Scheer spoke to that in his, his personal interaction with this type of legislation. Janet's

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family who is here today knows all too well how important this legislation is. And it-- all month I've been getting on this microphone and talking about April is Sexual Assault Awareness Month. And so it feels a bit poignant that this bill would come on the last day of April. And I will just close by reading the resolution that I submitted today. WHEREAS, Sexual Assault Awareness Month, which is a campaign to raise public awareness about sexual violence and educate communities on how to prevent it; WHEREAS, sexual assault is a serious and widespread issue as one in three women have experienced some form of sexual violence in their lifetime and one in three women-- one in six women and one in 33 men have experienced an attempted or completed rape. WHEREAS, silence and lack of knowledge about sexual assault play a large part in why it persists. In building awareness, we can end the shame and stigma with which survivors are burdened. WHEREAS, preventing sexual assault means stopping sexual violence before it even has a chance to happen and will require changing the social norms that allow it to exist in the first place from individuals-- individual attitudes, values, and behaviors to laws, institutions, and widespread sexual-- social norms. Today, we all get to participate in doing something for the people of Nebraska, both men and women, victims alike; and I couldn't be prouder to have been a part of this. And I'm so grateful to the Judiciary Committee and the advocacy groups that I have worked with and to this body. And I hope you will all push a green light for LB532. Thank you.

FOLEY: Thank you, Senator Cavanaugh. The question before the body is the advance of LB532 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 41 ayes, 0 nays on the advancement of LB532.

FOLEY: LB532 advances. Proceeding to LB532A. Mr. Clerk.

CLERK: LB532A by Senator Cavanaugh. (Read title.)

FOLEY: Senator Cavanaugh, you're recognized to open LB532A.

CAVANAUGH: Thank you. This is a \$75,000 allocation to update-- the Supreme Court estimates it needing for modifications to their case management system. And I encourage everyone to vote green on this.

FOLEY: Thank you, Senator Cavanaugh. Is there any discussion on the A bill? Senator Cavanaugh, you are recognized to close. She waives closing. The question before the body is the

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advance of LB532A to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 34 ayes, 0 nays on the advancement of LB532A.

FOLEY: LB532A advances. Proceeding on the agenda. General File, 2019 Priority bills, LB492. Mr. Clerk.

CLERK: LB492 is a bill by Senator Wayne relating to municipalities. (Read title.) The bill was introduced on January 22, referred to the Urban Affairs Committee, advanced to General File. There are Urban Affairs Committee amendments pending.

FOLEY: Thank you, Mr. Clerk. Senator Wayne, you're recognized to open on LB492.

WAYNE: Thank you, members of the Legislature, and thank you, Mr. President. LB492 is a bill that has long time coming for the city of Omaha. It is designed to address the structural issues of our transit authority statutes, that the states only transit authority in Omaha, Metro Area Transit. Members should have received a nice little handout from the Omaha World-Herald. It was an article that was pretty interesting, and you should read it while I talk because it kind of outlines the problems that we have in Omaha. What happened was a Omaha man named Don Ferree, F-e-r-r-e-e, who gave up cars for Lent and he decided to travel using our public transportation system. He lives on 108th and Fort, and if you want to know where that's at, it's pretty much, kind of in the middle of Omaha now that we have grown as far as the Elkhorn area. And what this article demonstrates is the issues we have currently with our public transportation system. I'm just going to highlight a couple of them quickly on page 3. He spends hours planning his bus routes. He waited for buses, got lost during his time during Lent, missed buses, sprinted after buses, and even chased down and jogged many miles for buses, and I'm going to highlight a couple of these. He was out at Burke High School and he was trying to figure out how to get downtown to TAC Building. He wasn't sure how long it was going to take. This is a person with a college degree studying maps, Google maps and everything, trying to time how to get down there. He was way off. He had to go back the next day after spending two to three hours to figure out how to stop and get some lunch because maybe he can kill some time. What made matters worse, on page 3 it will tell you, that he had to go to Bellevue, and it took four hours to get there one way. From Omaha to Bellevue it took four hours to get there. Why is that a problem? It's a problem because when you start thinking about those who are trying to move mass people to jobs across Omaha, they can't get there. And we'll talk a little bit more about that, but I implore everyone to read this quick read, because it really highlights the problems. Because at one point he ran from Papillion High School all the way down to 72nd and Dodge. It's a seven-mile run because he was afraid he was going to miss the bus on 72nd and Dodge, and actually when he



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got there, it still took him an hour to get two miles away from his home and he had to walk two miles in the middle of the night at midnight to get home. Now, imagine single mothers, single fathers, working families, trying to figure out how to get to a job such as Facebook, or those areas out in south Sarpy where bus lines somewhat run, and we can't get there. This fall we did an interim study, LR399, in Urban Affairs and we looked at the regional transportation system in the Omaha metro area, and what we found out was some key flaws in our current law. First, we held a hearing across the street from Immanuel Hospital on Sorensen Parkway which is a huge thoroughfare for Omaha. And we started at 7:00 at night. The bus route stopped at 6:00. Across the street from Omaha on a main street, a little another nugget you should know, that in Omaha, if it's a holiday, particularly a federal holiday, buses don't run. So imagine on fourth of July families wanting to get together without transportation. Imagine if you get that overtime call to go work at UMNC and you can't get there because you don't have public transportation. This is a critical flaw. What we also found out is that while the transit authority was amended in 2003 in an attempt to authorize the transition of metro transit to a regional transit authority, the statutory mechanism has been found to be completely unworkable, and no effort has been made to expand transit regionally. However, there is a clear need for transportation services outside of Omaha because we currently offer lines, or metro does. They have contracts with the city of Bellevue, La Vista, Papillion and Ralston and even into Council Bluffs. They are fixed routes paid for by those local governments through a contract. Nevertheless in 1997, transit authorities have technically lacked one key thing, and that is their own tax levy. Effective metro transits current tax levy is inside the city of Omaha and inside of Douglas County levy. Instead of setting their own levy, transit authorities must make a tax request to the municipalities or counties and if the request is granted, that is how they're funded. Let me talk about this process just for a little bit. Currently, metro's budget is \$32 million. Now, I want to put this in comparison with what Omaha Public School spends on busing kids throughout Omaha Public Schools. That is actually \$36 million. We spend more on busing kids to make sure that we have diversity in our schools, and some other things around our school system, than actually moving people. That's how much we spend on busing. LB492 would adopt a regional metro transit authority act and provide a mechanism for the creation of a regional transit authority in Nebraska. Specifically, this act will provide a process by which an existing transit authority, Metro, can become a regional transit authority. Municipalities within the same metropolitan statistical area, MSA, as a transit authority may elect to join the current authority as it converts to a regional mass transit authority. Creating or joining the MRTA would require two-thirds of a supermajority vote-- sorry, somebody from our office was calling --two-thirds of a super majority vote from their city council, village board of trustees, or existing transit authority board. RMTAs would be governed by a seven-member elected board of directors. The current transit authority is governed in Omaha by a five-member board appointed by the mayor and requires confirmation by both city council and Douglas County commissioners. Moving to an elected board ensures that all residents have adequate representation in the governing structure. While RMTAs would have their own tax authority, the maximum levy limit is identical to the maximum tax request that is

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allowed currently under state statute, underneath our transit authority laws. LB492 will also allow RMTA to consider light rail and other transit options, the language that is also mirroring what's in current statutes. Importantly, LB492 does not mandate the creation of any RMTA, it is up to local officials to decide whether they want transit as their priority and warrants the establishment of such a regional transportation system. I believe if we are truly into or considering or want economic development in our metropolitan areas, we have to give local governments the tools to create a robust regional transportation system. Currently, statutory structures inhibits the development of a regional transit which consists-- consequently limits Omaha in the ability to recruit. At least 28 states allow some other regent transit authority, including not just the blue states but the red states like Arkansas, Indiana, Iowa, Missouri, South Carolina, Texas, West Virginia. LB492 was advanced out of Urban Affairs on a unanimous 7-0 vote. And with that, I urge your green support to move LB492 to Select File. Thank you, Mr. President.

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

WAYNE: Thank you, Mr. President and members of the Legislature. What you see before you in amendment, AM628, is a white copy amendment that replaces the bill in two primary-- and makes two primary changes. First, AM628 limits the bill to allowing existing transit authorities to convert to a regional mass transit authority. The green copy of the bill would have authorized the creations of RMTAs in Lincoln and Grand Island MSAs, but concerns were raised in the committee about the impact of creating a new authority in those areas, and what was really going on in those communities. So we limit it to just Omaha's MSA. Second, AM628 makes a series of technical changes designed to ensure that the transition from existing transit authority to the regional authority works smoothly. Metro area transit was originally neutral on the bill, but with many of the corrected and harmonizing changes they have now moved to proponents. Importantly, the vast majority of the language that is in both the green copy and the amendment is literally copied section by section from our current transit statutes. Because LB492 does not require metro transit to transition into a regional authority, we had to duplicate their existing powers to the new act. And again, I think this is really important when we start talking about transportation and economic development. Most economic development occurs around our transportation hubs and our transportation infrastructures. And the fact of the matter is, in order for Omaha to grow as a state, in order for us to collect more jobs and bring more employers, we have to have a public transportation system. There's an old saying that if you miss your bus and another one doesn't come within 15 minutes, then you really don't have a public transportation system. In Omaha, Nebraska, today if you miss your bus, you call in sick, because your next bus won't come for two or three hours, sometimes not even at all if it's a special route. You're done. We want to grow, and if we want to grow as a state, I would employ you to go look at the

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Amazon rankings when they were ranking cities and look at where Omaha ranks when we put our bid in. Public transit was way down on the list. We have more-- we spend more on parking per month, individuals, taxpayers, in downtown Omaha than we do as a city on public transportation. We can do better and it starts with this bill allowing the local government the option to become a regional transportation system. Thank you, Mr. President.

FOLEY: Thank you, Senator Wayne. Debate is now open on LB492. Senator Geist.

GEIST: Thank you, Mr. President. And I'll just start my conversation with thanking Senator Wayne because I do appreciate what he does for his community, and we've had conversations off the mike for the past couple of years about that. However, in this case, I am opposed to AM628 and LB492 and the reason is because this act expands a current power. It adds a new layer of government. Currently, the taxing authority is 5 cents on the \$100 and this broadens that to 10 cents on the \$100. This board is given very broad powers in this act. It's given the power of eminent domain. We've had conversations about that on the floor this session. And in a time that we're feverishly trying to reduce property taxes, this could likely impose new and broader property taxes upon the citizens. The board that this establishes can also partner with JPAs and interlocal agreements. And in my opinion, that also further broadens their power. As a matter of fact, I brought a bill addressing the JPAs this session, LB412, and that bill would have required that it takes a vote of the people to even form a JPA. So, because of the broadening of powers, the ability to tax and add a new property tax, a broader property tax to the citizens that this would affect, and I will acknowledge this does not include the city of Lincoln, though the day would come that that could easily happen. I just stand in opposition to this bill. Again, I'll qualify that I do appreciate what Senator Wayne does for his district. I know that that's the emphasis here. I know that that's why he brought this bill. However, I can't agree with the method and the broadening of the property taxes that this would impose. And with that, I will cede the rest of my time to the Chair.

SCHEER: Thank you, Senator Geist. Senator Hilkemann, you're recognized.

HILKEMANN: Thank you, Mr. Speaker. I'm going to add a little levity to our conversation here today and I appreciate Senator for bringing this bill. And Senator Wayne, you see me once in a while walk around with my little ear buds in and so forth. One of the things I enjoy doing is, I like to listen to history. And I wanted to share with you when we had the-- when you were talking about-- and you brought this article from Matt Hansen relative to this guy having a hard time getting around the city using our metropolitan system, it reminded me of the story that the lecturer had when I was walking Sunday morning. He talked about the early 1900s and he talked about a gentleman by the name of Albert Augustus Pope. Now, you may not know who Albert Augustus Pope was, but he was the guy that brought the bicycle to the United States. And if you

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will remember, the first bicycles that used to have the very high wheels and a very small-- and when those bicycles were there, one of the problems was is that they weren't real practical because if you fell, there were lots of injuries that could occur, and I know a little bit about bicycle injuries. But Pope was the one who brought bicycles in with the smaller wheels in the front and the smaller wheels in the back, and it was also because of this was the very first that we had any precision tooling that could be done, and they could reproduce those. But at either rate, the reason the bicycle was very popular at the time that it was, was this was the first opportunity that people could travel any distance without walking or using a horse and buggy, because everything else had to go by rail and you'd have to go from station to station. And so you could use the bicycle, and you could go to different parts of the community and it gave the people a new freedom, and that's why bicycles were very popular when they were early on in their-- and so, Senator, we need to continue to keep looking at ways to improve our transportation system and getting people to work, and so I'm going to be supporting this measure. And one of the other little stories I'll just tell you of that same era, and also because of the fact that we had tool and dies was that I think Isaac Singer at that time developed the Singer sewing machine. And three things that Isaac Singer did that made the Singer sewing machine popular was, he was the first person who merchandised them so that you could buy them on a monthly basis. He also was the first person to franchise; and thirdly, he was the guy that set up stores and had people working right at the front so as people passed by, they could see people using the sewing machine, and so they would stop in and see how the people-- so they could discuss how they could make their things at home. So a little bit of the marketing that was going on in the early 1900s, and with that, I will yield any time to Senator Wayne if he would like.

SCHEER: Thank you. Senator Wayne, 1:25.

WAYNE: Thank you, Speaker, and thank you, Senator Hilkemann. I just want to bring up a couple points that Senator Geist brought up and I think they're valid points. But those points need to be understood in the context of the current law. The current law right now allows transit authority for a tax ask of up to 10 cents. They're only asking for, roughly, 5.5 cents split between the city of Omaha and Douglas County.

SCHEER: One minute.

WAYNE: We are copying an existing statute. That's all we're doing. So the current taxes will be the same if they are in Douglas County or the city of Omaha. Where there is an issue, and I've been clear about this, is if the city or municipality outside of the city of Omaha wants to join. Absolutely, there will be a new property tax, but it only is because of a two-thirds vote by their local city council. That is the safeguard. It's a supermajority. But here's the issue. We never ask for a vote of the people except for a bond on property taxes. It's always up to the local

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government, the local county. The local county decides what your levy limit is. The local municipality decides what you're levy limit is. They go up or down with just a simple majority vote. We are requiring a supermajority vote to just join.

SCHEER: Time, Senator.

WAYNE: Thank you.

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

HUGHES: Thank you, Mr. President. I was wondering if Senator Wayne would yield to some questions, please.

SCHEER: Senator Wayne, would you please yield?

WAYNE: Yes.

HUGHES: Thank you, Senator Wayne. So I have not gotten all the way through the bill, but would you explain to me what the statutory changes that we need to make in order to create this metropolitan transient authority, please?

WAYNE: So currently, if the city of La Vista or Papillion wanted to join the metro transit, they can. The issue is, and the reason they don't, is because there's no representation. So if Papillion were to join, they would still be appointed and confirmed by the mayor in the city of Omaha and Douglas County. It would only be to the next time, if the mayor chooses to, to appoint somebody for their district.

HUGHES: OK.

WAYNE: So people felt it was a taxation without representation issue.

HUGHES: Right. OK. I understand that point. Thank you for clarifying that. So there are the surrounding communities to the Omaha metropolitan area are part of the transit authority now, they're just-- they're buying in, is that an accurate statement?

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WAYNE: So those areas who have bus lines are using a contract. So they've contracted out with Metro to run bus lines to their areas.

HUGHES: So the bus lines, it is a coordinated effort across the metropolitan footprint at this point.

WAYNE: Correct.

HUGHES: It's just not working very well.

WAYNE: Correct.

HUGHES: So how is this metropolitan transit authority going to work better?

WAYNE: Because it will be an elected board where they're required to work together as a board for each individual area. So if Papillion comes on, they'll have an elected person from that area to make sure things are moving better.

HUGHES: So currently the controlling board is appointed by the mayor of Omaha.

WAYNE: Yes.

HUGHES: And so Omaha has really good bus service and anybody that contracts with them does not?

WAYNE: No, I wouldn't say really-- well, wouldn't say really good, but as you demonstrated in the story, to get to Papillion about 6:00 all the lines kind of get limited outside of Omaha.

HUGHES: OK. I guess I'm really struggling with how creating this extra layer of government is going to make it that much better than what we're doing now.

WAYNE: It's actually not a extra layer of government, we're moving it from an appointed board to an elected board that allows the board to be bigger in the sense of, if more people come on.

HUGHES: OK. So then I want to talk a little bit about the taxing authority. Currently, they're using, you said, 5 cents, but it's coming under the city's levy limit?

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WAYNE: Yes.

HUGHES: But this bill would raise that to 10 cents.

WAYNE: Actually the current language is 10 cents. They're just currently only asking for 5. So the current law says they can ask up to 10 cents. We're mirroring that same language, but they're only currently asking for 5.

HUGHES: But it does have to be under the city's levied limit and the 10 cents you're asking for would be a new tax outside of the city's levy limit, is that correct?

WAYNE: Correct.

HUGHES: So this 10 cents, what kind of a-- how many dollars are we talking? Is this enough to develop light rail in the metropolitan area?

WAYNE: No. This current tax base, even if they were to go to 10 cents, which nobody is proposing that, is not enough to develop light rail. The key is that if Sarpy County wants to grow into public transit, they have to have a new tax base or a bigger tax base, but they also have to be elected. The issue with-- there's no accountability on Sarpy's account. It's just a contract. So they want to grow, they want an elected board they can vote on.

SCHEER: One minute.

HUGHES: So this 10 cents is basically for operation, not for necessarily expansion?

WAYNE: It's-- but it would be for operation currently, but if they were to-- so if Papillion becomes a part of this regional transit, then that taxing authority would also go to Papillion. So, yes, Papillion would see a increase. Omaha would not. What I'm saying is, Omaha and everybody-- Omaha would not see one, because it's already within the Douglas and Sarpy County-- I mean, Douglas and the city of Omaha.

HUGHES: So this would be 10 cents on the Omaha metropolitan area. If Papillion voted to join, it would be 10 cents additional on the Papillion, La Vista, the whole-- everybody that joined, correct?

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WAYNE: It could. Potentially if they were up to ten cents, but again they're only using 5 cents of their legal authority.

HUGHES: OK. So Senator Geist mentioned eminent domain.

SCHEER: Time, Senator.

HUGHES: Thank you, Mr. President.

SCHEER: Thank you, Senator Hughes and Senator Wayne. Senator Wayne, you're next in the queue.

WAYNE: So just to clarify what's going-- I'm sending out a section by section, so just to clarify some of the questions about the tax issue. So for the city of Omaha, for those who are thinking this is going to be above, that current ask goes away. So the new, if you want to call it, the different tax would be the regional transit authority, what the ask that was going to the city of Omaha and Douglas County would go away. So theoretically, it's a wash in Omaha. The only place-- let me be clear. The only place this could be an issue, and this is my conversation with Senator Arch, was outside of the Omaha area, and that is why we added the supermajority vote to make sure that those outside of the area understand if they vote on this that it carries a little more weight. Inside the Omaha area, nothing changes. It's only outside the Omaha area. But let's face it, South of Omaha is where the growth is happening. You have right now, Facebook and Google who are building database centers who have over 50 to 60 jobs that are currently available that people can't get to. You have UNMC in the heart of Omaha where people from north Omaha who live ten miles away can't get to. You have Bellevue that people can't get to. If we're going to get serious about-- and it goes back to the big question here, colleagues. Is Omaha urban or not? Are we going to be a urban city and have urban things, are we going to pretend to say we're still a small town and everybody can get around on foot? We know that's not the case. We've seen too many businesses come in and say transportation is a problem. If you have a work force in your highest unemployment areas in north and south Omaha, and you have jobs in southwest Omaha and you can't get there, then what's the point? What's the point of us coming there when we can't fill the jobs? That is the issue. So we are trying to create a mechanism that gives tools to their local city councils and villages around the Omaha area to decide, do you want to be a part of it or not? And if you want to be a part of it, yes, you have to pay the cost. And if you pay the cost, we are going to increase the service around. There's no-- it makes no sense in this day and age that it takes four hours for somebody to get to 108th and Fort. To put that in perspective, when you're taking the Interstate and you're going on the west side, going towards 680, it's 680 and Fort. You got a half a mile before you get to 108th, that it takes four hours to get to Bellevue. How do we ever expect to attract a real business? How do we expect to attract a



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Toyota or a Mazda to do a megasite in south Sarpy when we can't get people there? This isn't just about my community. The reason this is a Urban Affairs priority, because this is a Omaha issue that if you miss a bus, you have to call in sick. If it's snowing, and the bus doesn't make it, you have to call in sick or lose your job. In 2019, we're going to say we have Omaha, Nebraska, and we're an urban place and we're trying to grow and do these wonderful things, but you don't have a bus system. You don't have a bus system that runs buses every half hour. And if that's what we're saying, that's what this body wants to say, then we have to rethink economic development. We have to rethink the ImagiNE Act and everything else because what's the point of bringing people in here if we can't move people to the area?

SCHEER: One minute.

WAYNE: This isn't a college where everybody stays on campus. This is a fundamental issue in Omaha, and it's not, again this is not just my community. To be quite frank, we don't have the jobs in my community to make this a my community issue. The problem is, we have to go out to Gretna, Papillion, La Vista to go to work, and we can't get there. From 108th and Fort to Papillion, it's-- or to Bellevue is four hours? An individual has to run seven miles just to make sure he can get home by midnight? We can do better, and that's what this bill is about. We can do better. It's about growing Omaha, and taking an economic stance saying we understand as we move forward with economic development in and around Omaha,--

SCHEER: Time, Senator.

WAYNE: --public transportation is the issue. Thank you, Mr. President.

SCHEER: Thank you, Senator Wayne. Those waiting in the queue: Senator Arch, Erdman, and Morfeld. Senator Arch, you're recognized.

ARCH: If I could ask Senator Wayne some questions.

SCHEER: Senator Wayne, would you please yield?

ARCH: Just a little bit of context because, of course, Papillion and La Vista is my district, and this has been frequently referenced here. We-- there is a line that comes out of Omaha, runs on 84th Street, and it is contracted, as I understand it, to the metropolitan area transit authority. And I guess I just have-- this has been a complicated bill and we've had multiple discussions about this in Urban Affairs, and I felt it was worthwhile to bring it out to the floor for discussion, and I

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just want some things to clarify with Senator Wayne, if he would be willing to respond to some questions.

WAYNE: Yes.

ARCH: Thank you. So do you think that-- do you think that by going to a regional transit authority that some of the issues that you talked about currently in Omaha right now could be solved by going to a regional transit authority, the infrequency of buses, that type of thing? Do we have a bigger problem than just this or do you think this would help solve some of those problems?

WAYNE: This would help start-- solve some of those problems. Not all, but it would be a huge start.

ARCH: OK. If a city opts in to participate in this, is there a way to opt out?

WAYNE: Yes. And if-- I can go back through the bill and get you that exact section. And if it's not, I will make sure it's on there. I thought-- we have had many discussions about that. And if it's not-- as you know, we went through variations of this bill in our committee --I will make sure it's in there.

ARCH: Sure. Several variations of this bill in our community, yes. OK, so a community could vote to withdraw, supermajority puts them in. What would happen to the current metropolitan Omaha Transit Authority?

WAYNE: So they have to vote to turn into a regional one, and then it would go-- the current one would go away.

ARCH: So the current one becomes the regional, more representation is brought on to the board, it becomes-- does it become an elected board right away?

WAYNE: Yes. So it becomes the regional up until the first election, and then it could potentially be a new board all elected, unless they decide to run or rerun.

ARCH: OK. And the ability to impose the property tax, 5 cents up to 10 cents would be the decision of that board.

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WAYNE: Yes. It would be a decision of the newly established board.

ARCH: Would they have the ability to have different levels of property taxes, one for Omaha, one for Papillion, one for La Vista? Would it be one? Is that-- would that be a possibility?

WAYNE: Unfortunately, no, due to the uniformity and proportionality clause in our constitution. That's one of the issues that was being raised is that currently under statute, you would have a Omaha board who is appointed, dictating in a Douglas County, you know, kind of conferment board dictating to Sarpy County what they are. So they need to be a representative from Sarpy County on the board.

ARCH: From Sarpy County, OK.

WAYNE: Well, from that--

ARCH: Or from the community that agrees to join--

WAYNE: Correct.

ARCH: --because each one would. So coming out of Omaha you'd have Ralston, you'd have La Vista, you'd have Papillion, each one of those would have separate decisions as to whether to participate?

WAYNE: Yes, each municipality has their own decision to whether to participate. So there could be a situation where Bellevue says yes, and Papillion says yes, and Ralston says no. I was trying to think how the line works.

ARCH: Right, right. OK. All right, thank you. OK, I'm looking at my questions here.

SCHEER: One minute.

ARCH: Those are my questions for now. As I said, this has, as Senator Wayne has mentioned, this has had several iterations, and it's not simple. I felt as though the course as the metropolitan area is identified, this is restricted to the Omaha MSA, but as that metropolitan Omaha develops, you mention coming out to jobs out in Papillion, La Vista, it can work the other way as well. So the transportation could be provided to go to jobs in Omaha, and the downtown area as well. So I think it's worthy of the discussion. Thank you.

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SCHEER: Thank you, Senator Arch and Senator Wayne. Senator Erdman. Oh, excuse me, Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senator La Grone would move to amend the committee amendments with AM1552.

SCHEER: Senator La Grone, you're welcome to open on AM1552.

LA GRONE: Thank you, Mr. President. And at the end of my opening, I'll end up withdrawing this amendment. But Senator Hughes in his discussion with Senator Wayne had a lot of the discussion that I was curious about, and I was not thrilled with how those questions went because it confirmed my fears about this bill. Now, I think Senator Wayne is completely correct. We do need to fix transportation in the Omaha metro area. We do have a worker crisis of connecting workers to where the work is, but I don't think creating another taxing entity and another elected board is the way to do that. I think that that is just growing government where in this state we already have many, many more levels of government than most states have, and I think that's a big problem that we need to grapple with and something that's driving our property tax problem. And this bill reminds me a lot of the Learning Community where it primarily taxed Sarpy County residents to pay for services within Douglas County. And so the amendment that I have brought, what it would do, is it would say, OK, if we're going to create this additional entity of government that is going to tax Sarpy County residents to pay for services in Douglas County, then we should at least eliminate another one first. So what the amendment would do is it is actually entirely Senator Erdman's bill that gets rid of the Learning Community. And I think that that really would at least lessen the burden of this bill if we ease the property tax burden on Sarpy County residents to pay for it, because this is a new tax. This is a ten cent new tax if-- on certain places in Sarpy County to pay for services primarily focused in Douglas County. Well, it does attempt to solve a metro-wide issue of worker transportation. That's something I'm more than willing to work with Senator Wayne on over the interim because that is an issue that we do need to address. But creating another layer of government that is paid for much by Sarpy County residents to provide services mainly in Douglas County, is not the answer. We already rejected that with the Learning Community where we finally got rid of the common levy. I supported Senator Erdman's bill that's still in Education to get rid of Learning Community entirely to finish off that issue, but this reminds me a lot of that, so that is why I brought the amendment to show how this could go poorly. So with that, I wanted to raise that as a discussion point because I think the parallels are stark, but I would withdraw that amendment at this time, Mr. President.

SCHEER: Thank you, Senator La Grone. So ordered. Returning to floor discussion. Senator Erdman, you're recognized.

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ERDMAN: Thank you, Mr. Speaker, and good afternoon. Senator La Grone, I appreciate your comments about the Learning Community as you have appropriately stated. The Learning Community basically is an organization looking for a mission and that Learning Community has run amuck and they have now started a foundation. On that foundation, you don't necessarily even need to be from the state of Nebraska. They're not elected. The foundation does not adhere to the open meetings law, it does not have an agenda, and they have never said what they're going to do with the money that they receive. And one of the issues that I never understood is, why did they need a foundation because now you can contribute tax exempt money to a school, and I'm not sure exactly why they did that, but they must have a reason. And that Learning Community is something that needs to absolutely, once and for all, be abolished. And this transit system that Senator Wayne is trying to put in place is going to collect about the same amount of money, maybe more. So I was wondering if Senator Wayne would yield to a question.

SCHEER: Senator Wayne, would you please yield?

WAYNE: Yes, yes, love to.

ERDMAN: Senator Wayne, so how much money does 10 cents collect if it went to the max?

WAYNE: Oh, I don't have that information right now. Based off my OPS experience, every cent raised about 2.3 million. That's just OPS, though, that wouldn't cover the entire city.

ERDMAN: So their current mill levy is about 5.5 cents?

WAYNE: They're current ask is about five.

ERDMAN: So that's-- that would be on-- what's your valuation?

WAYNE: Right now their budget is \$32 million.

ERDMAN: \$32 million. So if we added 5 more cents, it would be \$64 million?

WAYNE: No, because-- I'm getting something over here. I'm sorry, their property tax revenue is only \$18 million.

ERDMAN: Eighteen, so it would double, go to 36.

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WAYNE: Yeah, they do get some federal dollars. I forgot about that.

ERDMAN: OK. So how many people ride this bus system, this transit system now?

WAYNE: I don't know. I can get you that number. I'll get the exact membership. It's kind of the chicken and the egg. I'll just be honest.

ERDMAN: OK. In Section 8 in your handout, you handed that out to describe what's in each section. In Section 8 you talk about the seven-member board that's going to be elected. And I read through the bill there to look at where they're going to be and how they're going to be elected. Who is going to make that decision where the districts are?

WAYNE: It would be up-- like we do all our districting and redistricting, it would be through the Douglas County Commission or the commissioners in Sarpy and Douglas County, if there's two counties, and then it would be approved by the board.

ERDMAN: And there are going to be seven members on that board?

WAYNE: Yes. The initial board is drawn by the Election Commission and it changes, so, yes.

ERDMAN: And so, will they all be elected on the same day or are you going to stagger those? How do you do that? They'll all be elected at the same time?

WAYNE: Section 8 staggers it.

ERDMAN: OK. I didn't see that. Thank you. So where will these buses go, these additional new buses? And I'm not familiar with Omaha, so try to help me understand. Are they going to go to the processing plant for the chicken people?

WAYNE: Actually Fremont is outside of our MSA, metropolitan statistical area, but we are trying to figure out how to contract with them to-- currently to provide buses for them.

ERDMAN: How far is that?

WAYNE: From my district, it's 20 minutes.

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ERDMAN: So that would be a logical place for people to find work?

WAYNE: Correct. But it's outside of the metropolitan statistical area, so they have to be a--

SCHEER: One minute.

WAYNE: --individual contract.

ERDMAN: Thank you. So would this bill allow them to join you?

WAYNE: This would not allow them to join us at this time, because we defined it as a metropolitan statistical area. And I just want to mention because you said something. Unlike the Learning Community and everything else, you're not forced to be here. So it's not forced upon anybody. It's the local government's option.

ERDMAN: And you are correct about the Learning Community, you're forced to be there. That is a correct statement. So thank you for answering those questions. I'm still trying to figure this out. We don't have buses or transit system where we work. We usually just get in a car and go to work. So I'm trying to figure out exactly what you're doing. Thank you.

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

MORFELD: Thank you, Mr. Speaker. I rise in support of LB492 and the underlying amendment, and I want to compliment Senator Wayne on looking to a comprehensive solution to increase public transportation within his community. Obviously, this would not impact the Lincoln community. But as somebody who represents a district, that is probably the least mobile in terms of car ownershipwise in Lincoln. I know all too well, what this means for many different people. We have a lot of folks that are coming to this country for the first time, do not have a driver's license, utilize public transportation, or tries to, quite frankly. We have a long ways to go in the city of Lincoln, in my opinion. And it's really tough for them to get around, even in a city that is much smaller than the metro area of Omaha. And it has a real impact on people being able to have, oftentimes, not just one job, but multiple jobs, and particularly in a competitive employment environment, the more jobs that people can work, unfortunately, I wish that we lived in a society where a person could have one job and have a living wage, but oftentimes it takes multiple jobs for some folks. But the more opportunities we have for people to get efficiently from one job to another, the more-- the better ability we have to be able to fulfill some of those work force needs. In addition, we also have a lot of folks that come from other communities in greater Nebraska, when for whatever reason they can't drive because of a

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disability or something else, and quite frankly they come to the urban areas because they're unable to really provide for themselves in some of the rural communities that are much more spread out and do not have public transportation. And some of those individuals come here and they still struggle, even being in an urban community, being productive and being able to get from one place to another. So, I guess, you know, if you're opposed to this bill, then I'm curious as to what your solution is that achieves the same end, the same goal as Senator Wayne. I would be interested in hearing those alternative solutions, because currently the status quo isn't working. I've worked-- my organization has worked in Omaha with a lot of communities before, and one of the big barriers to getting services or even voting in person has been hour, two-hour, three-hour long bus rides to get to places that would otherwise take 15 or 20 minutes had we had a transportation system that was adequate. So with that being said, I just wanted to rise in support of LB492 and thank Senator Wayne for his efforts.

SCHEER: Thank you, Senator Morfeld. Senator Blood, you're recognized.

BLOOD: Thank you, Mr. Speaker. Fellow senators, friends all, for the few that are left in the Chambers, and I wish there were more because this is such an important bill. I do stand up in support of both the Urban Affairs amendment and the underlying bill of Senator Wayne's. And I've kind of been waiting, I didn't want to talk on this bill, but I think there's still some things that need to be said. In eastern Nebraska, we have a lot going on. There was a reason that MAPA came and spoke in favor of this bill. So around 2015, I want to say, we got a lot of information about millennials, so as we all know, Nebraska has more jobs than we have qualified people. How do we bring millennials into eastern Nebraska take these jobs that we can't fill? And one of the key things that we discovered was transportation was a key issue. They wanted to be able to do ride sharing. They wanted to be able to do bike sharing. They wanted to be able to walk and ride on safe paths to and from work and home and for their entertainment purposes. And the key issue when it comes to the bus system in eastern Nebraska is that it's a really expensive investment in our communities. Bellevue has limited bus service and we pay through the nose for it, but we have to have it. And the people that are getting punished because we don't have this good connectivity are quite frequently are lower-income people who are looking to go outside our community to get better jobs, people with disabilities, and our seniors. And I think that that's unfair that it's not balanced correctly and I think the only way we can do it is if we have a seat at the table, and that's what this bill is doing for Sarpy County. If we don't have a voice at the table, our voice is never heard. Now, he's already told you that we're really not changing the 5-cent, 10-cent thing. It already exists. He's saying they can have up to 10 cents, but right now they're doing it around 5 cents. He's not really creating new level of government. He's basically making the existing level better is how I look at it. I look at Senator Arch's district, PayPal. One of the first things I found when I was campaigning, and although I was not campaigning in his district, was PayPal complained to me about how they just could not get workers to La Vista, that the bus service was not coming to them, and that people were having to take jobs but not actually start



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jobs, quit jobs, because it was just too much of a hassle to get to and from PayPal. And they had been problem solving. Do we chauffeur people, do we have our own shuttle? But that's a big issue, and PayPal is big employer in Nebraska. So Omaha does things like-- it's called Transit Oriented Development or TOD. And the goal is to generate more rides. And what you're hearing with Senator Wayne's bill, I'm assuming, is this part of this big push for us to have better connectivity. And you heard me talk about it when we talked about NRD trails. That's part of the big picture. You hear about it a lot with economic development. How do we connect north Omaha to south Omaha? How do we connect Bellevue to Omaha, and La Vista to Omaha, because Omaha is the hub in our area, folks? But more importantly, how do they come and work in our communities? How can we ever bring good business in to Sarpy County if we can't provide them with the bodies? Because the bottom line is, and I know what Senator Erdman is talking about, where I grew up at, you got in your car and you drove. But that's not always the same in municipal areas. And so we need to make sure that we support--

SCHEER: One minute.

BLOOD: --we support this for the right reason. And the right reason is, eastern Nebraska has a plan, it's a very successful plan. We're going to keep the millennials, bring more millennials in, we're going to keep growing, and we have planned development and this is part of our development. Thank you, Mr. Speaker.

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

LA GRONE: Thank you, Mr. President, and I agree with Senator Blood that we do have a work force issue in Sarpy County. Actually, PayPal is in my district in La Vista, yeah, but you're absolutely correct, we do need more workers in that area. My problem isn't-- basically I agree with Senator Wayne on the problem. I think this is not a good solution, and I'm willing to work with him to find another solution. But I think that creating a government entity and taxing the citizens of Sarpy County, primarily for services in Douglas County, is not the answer. It's effectively, as I showed with my previous amendment, the Learning Community of transit, and I think that's a really bad idea. And I think that if we took time over the interim to look at this issue, we could find a structure that would work for everyone without raising taxes on Sarpy County citizens, without creating a new entity of government, which we already have way too many of in this state to solve the same problem without putting all of these burdens on the taxpayers. So that's my issue with the bill. That's why I won't be supporting it, though I do recognize that this is an issue that needs to be solved. With that, I'd yield the remainder of my time to Senator Arch.

SCHEER: Senator Arch, 3:30.

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ARCH: Thank you, Senator La Grone. One of the things that actually you raised, Senator La Grone, which has again started my thinking in a particular area is, is if the regional metropolitan area transit authority board decides that the greatest need is actually not in those communities where-- who have just joined this regional metropolitan area transit authority, if they determine that the greatest need is actually in another area, I guess the concern would be, is there a way for the dollars then to shift out of that community, not actually serve that community. So that being said, I know that Senator Wayne is more than willing to continue the discussion on this bill and wants to make it as good as possible and make sure that there's no-- all these questions are answered along the way, and I would welcome continuing that discussion with him. Thank you.

SCHEER: Thank you, Senator La Grone and Senator Arch. Senator Lowe, you're recognized.

LOWE: Thank you, Speaker. Now as I look around the floor here, it looks better now, but as I looked around when I hit my light there was only a few people here, and this is an important bill. I didn't want people rushing in and not knowing what was happening. I commend Senator Wayne for bringing the bill. I voted it out of committee. Not agreeing totally with it. I kind of voted it out because I think we need to discuss this here on the floor and maybe make it a better bill. And I think Senator Wayne is willing to do that, because he came from one point and brought these two amendments so that he could make it a better bill. So let's take some time, and let's come up with a great bill to help the people of his district, to help Omaha. I don't want to see a whole lot of buses running around that are empty, so let's come up with a good plan. I don't want to see a lot of vacant places where people have to run two miles to catch the next bus. I also don't want to create a new taxing authority or make a taxing authority larger because every time we do that, they seem to spend more money and not be conservative. So let's take a little time. Let's wait for people to come back and so they know what we're actually voting on, and let's make this a better bill. Thank you, Mr. President.

SCHEER: Thank you, Senator Lowe. Senator Hunt, you're recognized.

HUNT: Thank you, Mr. Speaker. I'm just kind of gathering some of my notes about this. I'm in the Urban Affairs Committee, and this is one of the bills that came before me this year that it was one of those that I wished that I thought of. And I admire Senator Wayne so much for caring so proactively and so thoughtfully about the community he represents. And I represent a district where this is a big problem, too, the problems that Senator Wayne was talking about with access to transportation to jobs. When we're creating jobs in Nebraska but we don't have a way to get people to those jobs, what we're really doing is just creating more places for people with middle-class, upper-class people to go work. And when lower-income people or people in poverty can't access those jobs, we're not actually helping people in our state and certainly not in my district where this stuff is needed. When this article came out in the World-Herald written by Matthew

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Hansen about the man, Don Ferree, who gave up the cars for Lent. I really related to that because when I was married, my husband and I shared one car, and frequently we had to use public transportation to get around, and it was really difficult. When I was elected, and I've gotten a couple e-mails in the last few weeks, I feel like they come in once in a while accusing me of having a gay agenda or trying to push progressive agenda on the Legislature in Nebraska, but my biggest agenda as a legislator is to get Nebraska to population two million. We're so close, and we've been so close for such a long time, and it's no secret that we're battling brain drain in our state. And young talent is often looking elsewhere to relocate. When I was growing up, I heard it all the time from my peers, I can't wait to get out of here. And now that I'm an adult, I hear people all the time saying, I had no idea that Nebraska was so cool, people who move here from out of state and they get a job here, and these, of course, are people with cars, and these are people who can get to their jobs. We know from millennials that a lot of us would really like to not have a car, a lot of us would like to live in a community where we can get around by bus or we can get around by train. And if we don't do something in our state to provide the infrastructure for that to happen, we're never going to get there. So what my understanding of this bill is from being on the committee and for talking about this with Senator Wayne, is that passing a bill like this, which is definitely not in its final form, you know, I think that we need to move it through General File and continue to work very proactively and very thoughtfully because if our Legislature can pass a bill like this, it's going to change the next 15 years in our state, and the next 20 years in our state for the way that we're able to attract and retain talent going forward. Passing this bill isn't going to fix it immediately. It's just going to give the skeleton to municipalities and to regional areas to be able to find a solution for this in the future. This is not a new level of government. It just increases local control so that areas like where I live can have more control over their local government and be able to build something locally that actually serves the people that need this type of service. So, I have a question for Senator Wayne if he would yield.

SCHEER: Senator Wayne, would you please yield?

WAYNE: Yes, yes.

HUNT: Am I correct in understanding that under this bill Lincoln could create a regional metropolitan transit authority if they wanted to within their statistical area?

WAYNE: Under the amendment?

HUNT: Yeah, is it the amendment or-- ?

WAYNE: The amendment, no.

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HUNT: OK. OK. Then never mind about that. In any case--

SCHEER: One minute.

HUNT: Thank you. --I support this bill, and I think that it's important for us to have a structure that we can start talking about, solutions for public transportation, and not only have a conversation about that, but we have something here that's in the works and that's being produced and it's going to give us some actual solutions. So with that, I'd urge your green vote, and I'm very excited to potentially be a part of a group that's able to make this happen in Nebraska. Thank you, Mr. Speaker.

SCHEER: Thank you, Senator Hunt and Senator Wayne. Mr. Clerk for items.

CLERK: Mr. President, Enrollment and Review reports LB470 to Select File with Enrollment and Review amendments. The following bills reported correctly engrossed: LB138, LB177, LB227, LB237, LB237A, LB496, LB616, LB641A, LB693. Senator Cavanaugh, an amendment to LB397 to be printed; Senator Lathrop to LB538.

Mr. President, Senator Bostelman would move to adjourn the body until Wednesday morning, May 1, at 9:00 a.m.

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