

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

Floor Debate
May 21, 2019

[]

FOLEY: Good morning, ladies and gentlemen. Welcome to George W. Norris Legislative Chamber for the seventy-ninth day of the One Hundred Sixth Legislature, First Session. Our chaplain for today is Reverend Michael Davis who is retired clergy member of the Great Plains Conference of the United Methodist Church in Gretna, Nebraska, Senator La Grone's district. Please rise.

REVEREND DAVIS: (Prayer offered.)

FOLEY: Thank you, Reverend Davis. I call to order the seventy-ninth 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.

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

CLERK: I have no corrections.

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

CLERK: Enrollment and Review reports LB323A, LB470A, LB686A, LB630, LB519, LB462, LB680 to Select File. Communication from the Governor to the Clerk. (Read re LB96, LB155, LB179, LB184, LB375, LB411, LB418, LB478, LB560, LB570, LB570A, and LB595.) Conflict of interest statement from Senator Gragert to be acknowledged, and new resolution, LR150 by Senator Albrecht; that will be laid over. That's all that I have, Mr. President.

FOLEY: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business I propose to sign and do hereby sign the following five legislative resolutions: LR120, LR121, LR122, LR125, and LR133. Members, please come to order. Senator Geist, for what purpose do you rise?

GEIST: Point of personal privilege, please.

FOLEY: Please proceed.

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

Floor Debate
May 21, 2019

GEIST: Last week, a handout was given to each senator as we discussed LB720 and it was published by an attorney group from Omaha and detailed an entire page of criticisms from the Performance Audits of the Advantage Act from both 2016 and '19. And there were several statements that were false. And this morning, I have passed out a correction to those statements. So please take this statement as not an agreement or disagreement with LB720, but a statement of support of the quality of work of the Performance Audit staff and their expertise. The staff works for the Legislature and it's important that we defend their adherence to the federal audit standards and assure the body of the trust that they can have in the audit staff's expertise and their attention to the scope of their work. I've given each of you a handout that explains their findings. I, and the audit staff, will be available to answer any questions should you have any. Thank you, Mr. President.

FOLEY: Thank you, Senator Geist. Members, the first items on the agenda are Final Reading items so we'll need to ask all of you to please be at your desks so we can begin Final Reading. All senators please be at your desk for Final Reading. We'll now commence Final Reading, the first bill of which is LB293E. Mr. Clerk, the first vote is to dispense with the at-large reading. Those in favor of dispensing the reading vote aye; those opposed vote nay. Record, please.

CLERK: 33 ayes, 6 nays, Mr. President, to dispense with the at-large reading.

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

CLERK: (Read title of LB293.)

FOLEY: All provisions of law relative to procedure having been complied with, the question is shall LB293E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Record, please.

CLERK: (Record vote read.) 45 ayes, 2 nays, 2 excused and not voting, Mr. President.

FOLEY: LB293E passes with emergency clause attached. Our next vote is LB294E. Mr. Clerk.

CLERK: Mr. President, I have some amendments that were carried over. First, Senator La Grone, AM308. Withdraw? Thank you. Senator La Grone, this also, AM294-- I'm sorry, AM309, Senator. Withdraw? Senator La Grone, AM1638. Withdraw. Mr. President, Senator Erdman would move to return the bill for specific amendment, AM1866.

FOLEY: Senator Erdman, you're recognized to open your motion.

Floor Debate
May 21, 2019

ERDMAN: Thank you, Lieutenant Governor. Good morning. Here we are working on the budget, very similar to the procedure that happened in '17. It's no secret to anybody listening, whether you're at home or here in the Chamber, that I'm not at all pleased with this budget. We continue to spend more year over year. We continue to appropriate more year over year and then wonder why our taxes are too high. This amendment will remove the \$7.3 million that we gave to the university for salary increases and utility increases. When this came to the Appropriations Committee, the original intent was to give them around 14 million. But we negotiated this down to 7.3. What I intended to do this morning, and I didn't get it drafted in time, is my intention that we would take this \$7.3 million and we would give that to long-term care provider rates. We have discussed that issue several times on the floor of the Legislature about taking care of the least, the last, and the lost, and those that most need help. This would be an opportunity for us to do that. This would be an opportunity for us to put our money where our mouth is. We want to help with provider rates, we want to take care of those unfortunate folks who, as Senator Walz has said in the past, they have worked all their life and paid taxes and now we can take care of them. I had a conversation with Senator Vargas last week and Senator Vargas was a bit surprised that I would be concerned about provider rates. I think that misconception comes from the fact that I don't like to spend more money than we should. The disappointing part is, we never prioritize how we spend our money. There's a total difference between spending money that we don't need to spend, and spending money that we should and take care of people. So I didn't think about this in time to get this drafted to transfer this 7.3 million to the nursing home long-care providers, but that would be the logical thing to do. That would make sense. \$7.3 million would bring these people back in line closer to what it costs them to provide the care that they're giving. The e-mails that I have received, and I'm sure you have received them as well, it shows that generally the shortage on a daily basis is between 30 and \$40 per resident-- 30 to \$40. So you take \$7.3 million and add that to the compensation or the reimbursement they would get, it would go a long ways in keeping our nursing homes open and providing the care for the greatest generation that America has ever known. But we want to give \$7.3 million to the university. We're already giving them \$16 million this year and a significant higher number next year. These are young people. These are teachers, professors, organizations that can stand to lose or not get 7.3 million. Those people in the nursing home facilities do not have an option. It's a chance for us to make a decision that makes sense, that provides for people who need to be provided for. So I would like to ask Senator Bolz a question if she would yield.

FOLEY: Senator Bolz, would you yield, please?

BOLZ: Sure, I'd be happy to.

ERDMAN: Senator Bolz, thank you. Can you tell me, do you have an idea how many people in Nebraska are on Medicaid in nursing homes?

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

Floor Debate
May 21, 2019

BOLZ: I don't have that number off the top of my head.

ERDMAN: So if we were to give the 7.3 million, take it from the university and give to the nursing home providers, would you be in agreement with that?

BOLZ: I mean, I think we have done a great process in terms of putting this budget together. I think it's fair and balanced. And I don't know that we're actually achieving goals if we remove needed resources from the university. I think it's important to remember that half of Nebraska's doctors and health professionals are trained by the university.

ERDMAN: All right. All right. Thank you. Let me ask you a question, this is yes or no. And if you can't answer yes or no, then that will be the end of our conversation. The question is, should we provide more funding for long-term nursing care providers?

BOLZ: Sure.

ERDMAN: Thank you. Senator Vargas, will you yield to a question?

FOLEY: Senator Vargas, would you yield, please?

VARGAS: Yes, happy to.

ERDMAN: Senator Vargas, thank you for the conversation we had last week. I appreciate that. So similar question to what I asked Senator Bolz, would you be in favor of taking this 7.3 million and placing it in long-term nursing care provider rates?

VARGAS: So, right now, yes. But the main reason is I really would have liked to see, maybe, us prioritize more funding from the general pool that we're prioritizing. And I agree with you, we could do more to prioritize, but I also think our education and what we do and the standards we set for utilities and other things of that sort are important for our education as well.

ERDMAN: So let me try to interpret. Your answer is, you would like to provide more reimbursement for the nursing home providers, but you don't want to take it from the university, would that be fair?

Floor Debate
May 21, 2019

VARGAS: If everything is on the table, I'm sure there's many other things that we discussed which every single Appropriations member doesn't agree on every single priority, but I think we try to prioritize as best as we possible could and these are two areas that we are prioritizing.

ERDMAN: Do you think that the Appropriations Committee goes through a process to determine what the priorities should be?

VARGAS: I think we go through a process to determine our priorities. We have those conversations in the beginning. It's a pretty iterative process, and even towards the end when we have sort of our last priorities, we come back to them. So I do think we do that, but I can hear from your questions that you don't believe we do it to the best of our ability.

ERDMAN: I don't believe we ever set priorities. If we did, perhaps you did that at a Appropriations Committee meeting when I wasn't present. I didn't ever hear us make a selection or make a determination what was the most important thing that we fund, what was second most important and down the list. Did I miss a meeting that did you that?

VARGAS: I don't know. That's possible. But one thing that is important is, I think we also each bring our own priorities and we try to voice them and make sure that there's a balanced conversation about that. And I think that that has happened in the Appropriations Committee, that opportunity has been presented to each of us.

ERDMAN: Yeah, I don't believe that's the case as far as priorities go. But we're talking about the most vulnerable people that need the most help. Thank you, Senator, Vargas, I appreciate it. Who need the most help. But they're not the ones that are going to get the help. It's going to be the university or whoever else. So this whole budget process is difficult-- it's very difficult for me to understand how we arrive at the budget we arrive at saying that we prioritize how we spend our money. When, in fact, I never had heard once in the Appropriations Committee a discussion about what do you all think is the most important priority that we fund? What I did hear was a question asked each senator, what is your priority? What do you think is most important? We did get that, and I give them that. We talked about that. But as a committee, knowing we have a specific amount of money to appropriate, we never went around and said, OK, let's see. Let's vote on what is most pressing, the most priority that we have, let's spend our money there. Let's do that and then we'll do this. That's not how we did it. And so we want property tax relief.

FOLEY: One minute.

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

Floor Debate
May 21, 2019

ERDMAN: Thank you, sir. We want property tax relief. We want to cut taxes, but we never cut spending. And I had made mention of this last week, and maybe some weren't here, so let me state it again. If we were to reduce the budget by 2 percent on an annual basis, 2 percent, if we have an increase in revenue, and the forecast is for about a 3 percent increase, take the 3 percent increase plus the 2 percent reduction in spending, it's 5 percent. We do that a couple of years, and we have real property tax relief, Senator Briese. We actually cut spending. And we distribute the money to help everyone. See, property tax is too high, not only in my district, but also here.

FOLEY: That's time.

ERDMAN: Thank you, sir.

FOLEY: Thank you, Senator Erdman. Senator Stinner, you're recognized.

STINNER: Thank you, Mr. President. Members of the Legislature, I rise today to thank each and every one of you for your efforts in this deliberative process about the budget. My hope is that at least the first-year people will have a better understanding of the process that we go through in formulating a budget. You'll have a better knowledge of what is comprised in the budget. You know, if-- and I am open --I have an open door policy. I'm open to discussing budget issues with each and every one of you. So you can approach me on-- at any point in time on budget issues. I share Senator Erdman's concern about nursing homes. I brought two bills which are really to segregate the nursing home out so that we can follow the appropriations better. That it's more transparent. That the dollars, \$7.4 million that didn't go out, does get out. We've actually allocated about 22 million in additional costs-- additional appropriations to the nursing home side. Now, we've got a ways to go, it's still not break even, but we've made a leap in that direction. The other thing, when we tried to address different issues in the budget, there are areas that need to be looked at. And we did look at those. And even though we have a substandard revenue growth, we did look at prison overcrowding. And we tried to address that in terms of specialty courts. We approved appropriations for a new salary situation for our prisoner guards. We also approved and brought to you a request for 384 maximum-security beds. We've replaced the Governor's Emergency Fund due to flooding. We addressed cost studies required by CMS as it relates to both the behavioral health and developmental disability section. Now we didn't fill those 100 percent, just like we didn't fill 100 percent on nursing homes. We're incrementally trying to move in that direction, trying to fit this puzzle of a budget together. We also addressed funding for the nursing homes in several different ways. And as I said, we kind of broke it out as a general line item in the budget. We put additional dollars, we set a basis for it so that we can track nursing homes. We believe that is an extraordinarily important area that we need to watch. We restored funding to providers that we cut \$58 million from. We restored dollars to higher education that we cut 8.5 percent. We do not single out one individual item within a higher ed,

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

Floor Debate
May 21, 2019

for example. Everybody was treated about the same. Everybody on the provider rates is treated about the same. So this idea that we pull from one because we don't like that category and we push it to another, I'm sorry, that is not a fair and balanced approach. And that's what we tried to do. We also provided \$135 million increase in TEEOSA spending. That's 3.6 percent per year which is probably one of the higher allocations that we've had, certainly since I've been here. And I haven't looked back in history, but I would imagine it's definitely in the higher side of things. With all of that, we took a look, even though we had 2.8 percent average revenue flow to work with, we actually put \$102 million into the Property Tax Relief Fund. So we did corral the expenditures at 2.5 on core. We provided for Medicaid expansion which took us to 3 percent. And that is the budget that we have been debating over the last couple days.

FOLEY: One minute.

STINNER: To pull it back to Select File is the wrong thing to do. I will oppose it. But, you know, it's-- there are areas where we continue to have to emphasize and continue to have to monitor. Certainly, Medicaid expansion, we broke that out of the budget so that we could follow that. But you have an austere budget this time, 3 percent, 2.5 core. That's as good a budget as we could do under the circumstances and it addresses a lot of important situations. And be mindful, I'm going to make this point, we're almost a little bit over a year away from the prison overcrowding situation becoming a real problem for us. So that is something I think that we have to take a look at. We have to understand, we have to digest over this interim period so that when we come back, we can truly have a plan that says, hey, we're over.

FOLEY: That's time, Senator.

STINNER: Thank you, Mr. President.

FOLEY: Thank you, Senator Stinner. (Visitors introduced.) Continuing discussion on the motion. Senator Bolz.

BOLZ: Thank you, Mr. President. I wanted to rise in opposition to the motion to return this bill to Select File. I stand in support of Senator Stinner and the good process of putting together the preliminary budget, putting together the agency hearings, working this bill through General and Select File in partnership with all of you. And I think it is balanced and I respectfully disagree with Senator Erdman that we didn't establish priorities. I think we have established priorities. That has been done through multiple conversations, hearings, conversations with stakeholders, and debate on this floor. I also wanted to rise in specific response to the idea that changing the university budget is the right thing to do at this point in time. While I think we do need to keep careful watch of provider rates, while I do think that provider rates should be improved, I also

Floor Debate
May 21, 2019

think we need to pay careful attention to our investments in our higher education institutions. And that's not just because I think they add value, because they do. The University of Nebraska generates \$4.5 billion in total annual economic impact. And for every dollar invested by the Legislature, the university returns seven. So I think there's an economic argument to be made here. But more than that, I want to put this in the context of the decisions that we've made as this Legislature in the past. The university has not received an increase in appropriations for operating cost, exclusive of salaries, since 2006-7 and since that time, the Consumer Price Index has increased 17.2 percent, or 1.6 percent annually. And I say that because costs have increased and we just really have not kept up with the pace of the cost of utilities, the purchase of goods and services, supplies, and equipment. And I also think there's a fairness argument to be made here in terms of rebalancing just university funding. We've tried very hard to keep an even field in terms of all of higher education, so we were able to fund to the greatest of our ability the salaries and health insurance for the state colleges, the community colleges, and the university, as well as utilities. And so, I think keeping those entities on an even keel is really important. And that's also because of what the higher education institutions do not only for broad economic impact, but for healthcare specifically. There's no running a nursing home without nurses. There's no running a nursing home without doctors. The University of Nebraska trains over half of Nebraska's 11,000 doctors, dentists, and health professionals. So when we look specifically at some of our high demands, high-need jobs, nurses are right at the top of that. And the geriatric services are a big part of those numbers. And so we simply can't-- can't ignore the fact that the university has a role to play in making our overall health and well-being, whether it's nursing facilities or our own healthcare, or any other need from workers in our state, a priority. I also think it's important to note that the UNMC average faculty salary is 5.7 below the average and the university's faculty salary is 5 percent below the average of its peers. UNO and UNK are at the average of their peers due to collective bargaining which is required by law. So I do think we are handling the university in a very fair, even-handed manner. I think it's on par with other higher education institutions. I think the university has an important role to play in terms of building our healthcare work force which is part of the quality portion of making sure that providers have what they need. But more than that, I stand in support of Senator Stinner and the Fiscal Office and the Appropriations Committee and this body's process in terms of putting together a fair and balanced budget looking at a variety of priorities ranging from K-12 education to higher education--

FOLEY: One minute.

BOLZ: --to maintaining our retirement funds. So colleagues, please don't return this to Select File. Let's move the budget on, move forward with the other major issues of debate this session. Thank you, Mr. President.

Floor Debate
May 21, 2019

FOLEY: Thank you, Senator Bolz. There are currently nine senators in the speaking queue. Senator Wishart, you're next.

WISHART: Thank you, Mr. President. I rise in opposition to the return to Select File motion and in support of LB294. I did want to say though that with Senator Erdman, this was his first year on the Appropriations Committee, and for the rest of us it's almost like we've been to battle together dealing with the previous budgets, having to do two budgets in a year. And so, I do think that as a committee we can come back and realize that maybe we need to do a better job of orienting new senators on to the team. Because I do think we've gotten to a point now as a committee where we know each other really well. We know what our priorities are. We've had summers to talk about issues. We understand the way each other work and the way the appropriations process works because we've had more experience. So I have noted what Senator Erdman has said, and I do think that as somebody who I hope I'll be in Appropriations for many more years, I have taken note that potentially we need to do a little bit better job of orienting new members on to our committee understanding that they're starting from a different place than where we were. I also want to talk a little bit to the dynamic we're discussing about what we prioritize in terms of investing in providers that allow seniors in our state to age gracefully and investing in our university system, which I consider an anchor for attracting and retaining young people. And those need to be both of our priorities and we should not be taking from one to support the other. I will come back to the statistic that I think about every day when I come in here to the Capitol, the two questions that need to drive the policy decisions that we make. And that is that by 2030, we will have more people 65 and older in this state than we will have 18 and younger. We will have more people leaving our work force than we will have entering unless we really figure out a way to attract and retain more young people in our state. And so the two questions we'll be figuring out as senators, and the two questions we need to prioritize especially on the Appropriations Committee when we're talking about investments are, how do we invest in a system that supports seniors being able to age gracefully in our state, and at the same time, how do we support the kind of infrastructure investments that will attract and retain young people? And those two priorities, especially for seniors aging, cannot exist without a healthy work force because then there will be no tax base, no young people, to be able to support an aging population. So that's why I have always been somebody who has strongly supported the university. And on top of that, any cuts we do, especially in terms of utilities not fully providing for the cost of living increases that all businesses and institutions experience, if we don't do that with the university it directly affects student's tuition. So we would be balancing our budget on the backs of students in their tuition rates. And that is unacceptable to me why we would be increasing the cost for the future generation of Nebraskans, who I hope will be here and stay here and build their careers and build their families. We are facing, what I consider one of the biggest crisis and what I consider to be one of the main driving factors--

FOLEY: One minute.

Floor Debate
May 21, 2019

WISHART: --and why we are dealing with property tax issues, and that is we have a work force crisis in our state. We have 58,000 jobs open. I was up in Columbus, they had 800 jobs open today that need to be filled. If we focused on filling those jobs, on having work force development initiative that fills those jobs, we would be able to solve our property tax problem. Thank you.

FOLEY: Thank you, Senator Wishart. Senator Morfeld.

MORFELD: Thank you, Mr. President. And colleagues, I rise in opposition to AM1866 and returning the budget to Select File for a few different reasons, some of which have been made here today. First, I'm not a part of the Appropriations Committee, but my understanding is that there are meetings where-- or at least a meeting where priorities are made. I understand what it's like to miss a meeting. I miss a few meetings because I'm a young professional and I have work obligations, but I don't complain about not being a part of it later on down the road. In addition, I think that Senator Erdman has purposely, you know, really kind of made us face a false choice here. That we're either in support of long-term care and seniors or we're not in support, and that's not the case. This money could come from a lot of different places. It could come from the Property Tax Relief Fund. It could come from new revenue generated by new taxes. It could come from a whole host of different other areas. So if you vote against this, you're not voting against seniors. That's a false choice that Senator Erdman has provided. And that's made clear by, you know, his yes or no answers that he supposedly requires from senators on the floor, or otherwise his time is done, or whatever the case may be. Colleagues, all of this, the budget is dynamic. And the budget is something where if you take from one area, it impacts the other areas. And as has been noted earlier, one of our biggest problems is our state is a work force shortage. We can talk about supporting seniors, but if we don't have the work force and the tax base in order to support those seniors and provide those services, then we're not going to be able to support those seniors in the long run anyway. And I'll tell you that one of the things that is most attractive to keeping young people in Nebraska is, yes, the quality of our university, of our community colleges, of our state college system, of our other work force investment opportunities for people on skills, yes, that is one part of it, but then the other part of it is the affordability of our higher education, which is unparalleled, quite frankly, compared to other states. Even students that are staying instate at other states. And that's one of the biggest attractions to keeping students here or bringing students back. I was just talking to a new friend and colleague of mine that serves on my board of directors and one of the things that he said was, when he immigrated to this country, he first was looking at going to Miami and they provided him a 75 percent scholarship, which was pretty good. But then he got attracted to the University of Nebraska and he didn't get the same amount of scholarship but it was three times less and he decided to come here. He's now a successful business person in the state and has invested a lot of his time and decided to keep his family here. So we can keep chipping away at the university budget, which we have historically done for the last 20 or so years, but it has

Floor Debate
May 21, 2019

consequences. And if we think we have problems now with being able to provide services to seniors, just wait until we don't have any more young people in the state, or a lot less than we could have had had we been thoughtful about not just the university budget, but also thoughtful about providing services to our seniors, thoughtful about how all of those different things interplay together to ensure that we have a strong economy, a strong state, and a state where young people and both old people alike want to stay. Thank you, Mr. President.

FOLEY: Thank you, Senator Morfeld. Senator Slama.

SLAMA: Thank you, Mr. President. I rise today still listening to debate on Senator Erdman's motion, but take issue with other members of the Appropriations Committee being dismissive of Senator Erdman's argument about cutting wasteful spending because he's new to the Appropriations Committee and doesn't know any better. That's patronizing. I think he's making a fantastic point that at the root of our state's taxation problem is an addiction to spending. And I applaud Senator Erdman for having the guts to stand up and say it on this floor. And with that, I'd like to yield the remainder of my time to Senator Erdman if he'd like it.

FOLEY: Thank you, Senator Slama. Senator Erdman, 4:20.

ERDMAN: Thank you, Senator Slama. I appreciate that. So we have diverted our conversation about what the real issue is, and that's taking care of people in the nursing homes. I looked up on the Internet and there is 16,548 licensed beds in the state of Nebraska. I didn't do the research to see how many of them are Medicaid, but 7.3 million, if every one of those beds was Medicaid, every one, and they're not, that would be \$500 a year, 7.3 million. And if they're \$30 a day short, that is about 900 a month. And even for a person who has not been appropriately indoctrinated into the Appropriations Committee, I can still understand that 30 times 30 is 900. You multiply that times a year and it's over \$10,000. So the nursing homes are short, right? So it has been said that the university returns \$7 for every \$1 invested. I understand that. I don't agree with it, but I understand that's what they say. So they get-- they're going to receive this year \$611 million from us, tax dollars. They're going to get another over 500 million from the federal government tax dollars, and then they get grants, and some of those grants are tax dollars. So about 70 percent of their total funding comes from tax dollars. For the life of me, I've never been able to figure out how you take money that's been in the system once, it's been in your and my pocket one time, we collect that in tax dollars and then we distribute that back into the economy and that's economic development. That's growth. I don't understand that. Of course, I don't understand that government is the answer to everything, so that's probably why I don't. To Senator Wishart's comments about those on the Appropriations Committee need to be, what shall I say, trained or indoctrinated or whatever word you want to use, I was a county commissioner for 12 years, did budgets there. School board member for 16, did budgets there. Served on co-op boards, hundreds

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

Floor Debate
May 21, 2019

of meetings, and budgets. Never did-- never did we do a budget like we do here. We prioritized what our spending was going to be. We made a conscious effort to spend our money wisely because we knew it was somebody else's money. But we don't do that here. And so if we want to fix our tax problem in this state, we cannot continue to send in a budget that is an increase in spending. Because saying that we decrease the amount of increase, it means absolutely nothing. So what we do is we got to make sure that these Appropriations Committee understands what it is this committee normally does. And so when you're new, and you walk in that room and you have a different conception of how this thing should work, and you're not playing nice in the sand box or you don't agree, then it's a difficult situation.

FOLEY: One minute.

ERDMAN: I'm not in favor of this budget. I am in favor of helping people in need. This is an opportunity for us to put our money where our mouth is. So as you've heard those people stand up and talk about the university and how wonderful things they do, what you're hearing is the university is far more important than taking care of the needy, taking care of those in the nursing homes. In fact, what you need to understand is the university is the most important thing that happens for funding here in this Chamber. I realized that in '17, but it becomes more evident every year as I serve here. So that's what we're doing today. Bring it back to Select File and let's make a decision that makes sense. Thank you.

FOLEY: Thank you Senator Erdman. (Visitors introduced.) Continuing discussion. Senator Erdman, you're next in the queue.

ERDMAN: Thank you, again, Lieutenant Governor. I was wondering if Senator Wishart would yield to a question?

FOLEY: Senator Wishart, would you yield, please?

WISHART: Yes.

ERDMAN: Senator Wishart, if you would, could you explain to me what part of orientation or what part of serving on the Appropriations Committee that I don't understand.

WISHART: Senator Erdman, I wasn't saying as much that you didn't understand, because I recognize that you have you a lot of experience in your previous life serving. I just felt like as a committee, there are a group of us who have been working together to deal with two budgets and

Floor Debate
May 21, 2019

I'm just hearing what you're saying and self-reflecting on what I could have done better to be more supportive in terms of your issues with our prioritization.

ERDMAN: OK. I understand. I appreciate that. Well, one of the things that comes to mind when I began the process of serving on the Appropriations Committee is there are people who have been there for a while and understand how this works. And they do a very good job of finding money to appropriate for their projects or their bills. I understand that. I think the dilemma that I have is I'm for less government. I'm for less spending. And so for a person to serve on the Appropriations Committee with that attitude is peculiar, because you see, what we do is we have a forecasting board, and no disrespect to the Forecasting Board, they do the best job they can with what they're entitled to do. I understand that. So we have a forecasting board that forecasts the revenue that we're going to receive and then as has always been the case with Appropriations, we appropriate every dollar up to that amount-- every dollar. And about the third day that we met in Appropriations, I made a comment that we should accept the 5 percent reduction that the agency's have volunteered they would cut if we took a 5 percent cut. And then at the end of that budget cycle, we would know how much revenue we have for property tax relief, or if the Forecasting Board forecasted a downturn in revenue, we would have our problem solved and we wouldn't have to go back through the budget again. That went over really, really well. I think I made four motions to accept the 5 percent, fortunate enough to get a second. They did not pass. Then Senator Rod Clements tried that a couple times and I think we actually made a cut of \$100,000. On a five point, whatever, billion dollar budget, we cut 100,000. So Senator Wayne comes in with a bridge study for his district, and I appreciate Senator Wayne. I'm going to tell you, he has his act together. He can explain a situation in such a way that you think it's the most important thing in the world and I appreciate that. Senator Wayne's good at it and that's no disrespect to Senator Wayne. But we do things based on how people make you feel when they make their presentation. That's always a problem. I've only made one decision based on an emotion that I can say was the right one and that was to marry my wife. So basically, when you make decisions on emotion, sometimes you don't take into consideration the ramifications of you're spending. So this budget is something that I will not be voting for. And I think it's an opportunity for us to bring it back to Select File to make a decision about how we fund long-term healthcare-- long-term nursing home care in the state of Nebraska.

FOLEY: One minute.

ERDMAN: Thank you, sir. And I appreciate Senator Stinner has a bill to make-- or force or review how much fund-- how many funds the HHS Department sends out to the nursing homes, because they haven't been sending everything that they've been appropriated, and I appreciate that. But we got to continue to make a difference. We got to continue to understand that we can't fund everything that comes along just because it makes us feel good. Thank you.

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

Floor Debate
May 21, 2019

FOLEY: Thank you, Senator Erdman. Senator Hilkemann.

HILKEMANN: Thank you, Mr. Lieutenant Governor. I rise to talk just a couple of things about to defend the committee work that we did this year. And I'm wondering if Senator Erdman would take a couple of questions.

FOLEY: Senator Erdman, would you yield, please?

ERDMAN: Of course.

HILKEMANN: Senator, do you remember on our very-- some of our very first conversations when we got together? As I remember, one of the biggest unknowns that we had going into this, into the Appropriations Committee was Medicaid expansion, am I correct?

ERDMAN: That's correct.

HILKEMANN: And what did we suggest that maybe it would cost for Medicaid expansion, do you remember?

ERDMAN: You mean when it's completely implemented?

HILKEMANN: Yeah, well, what we may have to allocate this year for Medicaid expansion.

ERDMAN: It was 49 million.

HILKEMANN: That's kind of what I remember, roughly \$50 million that we didn't know what-- you know, how-- is it going to be 50 million and so forth. And so as the process worked out, we changed that number based upon learning that Medicaid expansion is not going to be placed into effect now until October of next year. So we did discuss, that was a huge issue that was there. What was one of the other really huge budget issues that we had to deal with this year as you recall?

ERDMAN: I don't remember. Funding the university.

HILKEMANN: Well, one of the-- the big issues that I was concerned about was is that we were going to place-- we were going to do a 22 percent increase in a property tax relief fund. We were

Floor Debate
May 21, 2019

going to put in \$51 million in there. I think I expressed some concerns that that was going to be a huge budget item. Do you remember that, Senator?

ERDMAN: Yeah, I remember that very well and then you wanted to take-- if I remember right, you wanted to take if all and put it in the rainy day fund.

HILKEMANN: Well, I voted that we put half of it in the rainy day fund. Yes, I was concerned about that. And I wanted to-- you voted-- you were one of the two votes not to bring the budget out. Do you remember the reason that you said that you didn't want to bring the budget out?

ERDMAN: There were numerous reasons, but maybe the one I said was we aren't not funding the Secretary of State and we spend too much money.

HILKEMANN: That's correct. That's how I remembered it. Right. OK. So I just wanted to-- so the fact that we didn't provide-- that you wanted to put more money into the provider rate increases was not the reason that you didn't-- that was not one of your stated reasons for not voting the budget. Am I correct?

ERDMAN: That's correct.

HILKEMANN: OK. Thank you. I just wanted to get that clear. Thank you, Senator. One of the concerns that I have is that the university, when I look at what we spent 2015, at 577, and I'm not saying that we don't spend a lot of money on our university, we do spend a lot of money on our-- we need to spend a lot of money on our university. That's our future, that's our-- since I've been on the Appropriations Committee, we have decreased the university spending two of those three years. And at this point, this year, we talked about actually as much as a total from 574 to 592 which represents approximately 3 percent increase from their decreased budget from 2018. In that same period of time, we have added 45 percent to the Property Tax Relief Fund. Again, this year, we added 22 percent to the Property Tax Relief Fund. We added another 9 percent to the Property Tax Relief Fund over the five-years that I have been in this-- on the Appropriations Committee. So, and I'm doing a survey in my district. I sent out 500 surveys to random people in my district. We're just getting the results back in because I want to know how they feel about whether they feel we're over property taxed or are we over-- where are we coming? And the results that we have, the preliminary results that are coming in, and I appreciate everybody because I have no idea the 500 people who got them, but those of you in my district that happen to be listening, thank you for those of you who took time to send in your responses. And if you've got one of those and you haven't responded, go the on-line poll and do it. Eighty percent of the people in my district believe that their property taxes are too high and so do I.

Floor Debate
May 21, 2019

FOLEY: That's time, Senator.

HILKEMANN: Time, you said?

FOLEY: That's time.

HILKEMANN: OK. Thank you.

FOLEY: That's time. Thank you, Senator Hilkemann. Senator Bostelman.

BOSTELMAN: Thank you, Mr. President. Good morning, colleagues. Good morning, Nebraska. I have voted no on LB294 thus far and I will vote, more than likely, vote no on LB294 again in this on Final Reading because I don't agree with the budget as it is. I don't agree with the spending as it is, and I think we're doing misgivings to the state on how we're doing our appropriations in the budget process. I may be mistaken, but I may be, this morning, the first person other than Appropriations Committee member to stand up and talk on this bill. I don't believe I had an opportunity-- I may have had an opportunity on Select File to speak on it. I believe I spoke on General File. I know I did. My concern is the 3 percent overall increase. Quite frankly, I think we should take-- it should either be a one or one and a half decrease from the 3 percent. In other words, it should either be one and a half percent or a two percent increase, if that. In the budget, fund those areas which we have to fund, that we're required to fund and everywhere else we look to where we can work with those agencies to reduce the amount of their increases and their spending as they have it. A lot of talk this morning was talk about the universities, but before I go there I want to talk about bills that are in the budget, in LB294. I don't believe that it is the right thing to do that nonagency bills, if that's the right term to be used, are put in the budget. If I'm a senator and I want one of my bills to pass without, and be funded, without going to the floor, I don't think it should go to the Appropriations Committee and Appropriations Committee takes and puts it in the budget and then here we sit. We don't have time to talk on it. We can't talk on it because there's not enough time in the process as the rules are set to actually flesh that out. I understand if agencies have increases, agencies have things that they want to do with their budget, that's fine. I get it. And that's what the Appropriations Committee is there for. They're there to work through that and deal with that and I thank them for all that they've done and the work that they've done. However, if it's a bill coming to the Appropriations Committee that has-- needs funding, it should come to the floor. It should come to the floor first and there are several bills in this budget, in this bill, in LB294, that do that, and I think those individually should have come to the floor. Like everybody's else's bill, we debate it, we vote it on the floor, and we pass it or we do not pass that bill. The time that we debate I think that's something we should look at in the future and rules perhaps. I think every senator should have the opportunity to speak on a bill, every senator should have an opportunity to discuss what

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

Floor Debate
May 21, 2019

they do or don't like. We don't have that opportunity here, that's just how it works. That, I understand are current rules, but I think those need to change. I would like to see that happen. We talked about the university quite a bit and I think, Senator-- I want to commend Senator Erdman for coming up with an idea on how to fund our long-term health facilities because they need that help. We've heard about that on the floor a lot this session and now he has provided an opportunity to do that and we're not willing to do that. I think it's worth the discussion. I think it should be discussed at length. I support the return to Select to have that discussion. If it's not the university, where else could we take those funds out of the budget-- out of LB294 and appropriately fund long-term healthcare facilities? We talk about the university, and I'm not picking on the university, I don't want it to sound like I'm picking on the university, but we talk about the university as we have to have it. It's the savior of the state on things. We have to have it. Well, let me tell you--

FOLEY: One minute.

BOSTELMAN: --if these long-term healthcare facilities and these jobs go away in rural Nebraska, we're not going to need the university anymore. Private universities, private colleges in the state have more individuals graduate and stay in the state than the University of Nebraska does, than that college system does. That should say something to everyone. We need to understand that. Work force development, we keep closing-- we keep allowing large corporations, manufacturers, large businesses that have high-paying jobs close in the state and walk away, and then we complain about work force development? Really? Every state, I believe, has issues with jobs. But we continue to watch large companies, big companies reduce work force, close their shop, and go to another state. We don't do anything about it. Do we need to generate work force or do we need to keep those companies that have committed, that have been here in the state and hold them here? And if you're going to be here, you want to be in this state, then there's people here that want to work that will work.

FOLEY: That's time, Senator.

BOSTELMAN: Thank you, Mr. President.

FOLEY: Thank you, Senator Bostelman. Senator Friesen.

FRIESEN: Thank you, Mr. President. So as I've looked at the budget and I've looked at where our priorities have been, I-- we worked tirelessly in the past four years to reduce property taxes. This year we've nibbled around the edges again, we've come close. We did have a bill that did make major changes but didn't fundamentally address quite some of the issues that agriculture had. But again our budget-- the Governor's budget that he brought forth was over 3 percent. And

Floor Debate
May 21, 2019

so I commend the Appropriations Committee for coming in with a lower budget. I appreciate that. Did they prioritize some of the things that I thought they should have? No. And do I think we should spend a lot of time talking about the budget? Yes. I think we should scrutinize the budget. It's the only thing we're required to do. It's something we have to do. It is the biggest thing we do. And over the years you can see where we have cut a lot of income taxes. We have provided property tax relief, and I think right now if you look back over the past 10 to 15 years, you remember the Hadley sheet or whatever it was that we handed out, the two were fairly close together in what we were doing. But over time, if we're still going to continue to grow our budget at 3 percent and Consumer Price Index is less than that, we do have a lot of needs in the state, and we have not really looked at modernizing our taxes overall, whether it's our tax rates, whether it's the sales tax exemptions that we give out, there's a lot of issues that we have not addressed in the big picture, so to speak. We've tried to nibble away at little things. Would Senator Lathrop yield to a question?

FOLEY: Senator Friesen, who did you call?

FRIESEN: Senator Lathrop.

FOLEY: Senator Lathrop, would you yield, please?

LATHROP: Yes.

FRIESEN: Thank you, Senator Lathrop. I remember when we were in Nebraska City and we were discussing issues that might come up this session and I remember you telling me specifically that property taxes were the biggest issue in your campaign when you knocked on doors. Would that be summarizing correctly?

LATHROP: When I went door to door in District 12 and talked to an awful lot of people, I would say meaningful property tax relief was in the top two or three issues. Maybe even the top issue. It's very important to people in District 12. To be honest with you, when they see that statement that shows what their credit is from the Property Tax Credit Relief Fund, it seems meager to them. That's not meaningful property tax relief what we're doing right now. I hope that answers your question.

FRIESEN: So you can imagine how-- what the pressure is in my district then when property taxes have gone up 200 percent that it might be a big issue to me, right?

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

Floor Debate
May 21, 2019

LATHROP: Absolutely. And as we discussed, Senator Friesen, as the state has over the last dozen years, maybe more, maybe it's more like 18, ratcheted down the spending, we have less money available for state aid to education and other things. And as the state shirks its responsibility or underfunds those tasks that are the responsibility of the state, including K-12 education, we turn the responsibility over to the property taxpayer and that's really how we got here.

FRIESEN: So do you feel the Legislature has properly addressed what most of us would say is the number one issue?

LATHROP: Do I feel like we've properly addressed it? Are you talking about LB289?

FOLEY: One minute.

FRIESEN: Any of our property tax bills out there.

LATHROP: I don't think we're leaving here with the issue-- if we adjourn sine die today, we have not addressed property taxes in a meaningful way where we address the core problem which is the state has not properly funded some of its responsibilities. And this isn't a knock on Appropriations Committee. They're dealing with the revenue that's coming in, which we have through various bills that have cut income tax and other taxes.

FRIESEN: Oh, so you're blaming it on the Revenue Committee? [LAUGHTER] Just kidding.

LATHROP: I would be happy to serve on the Revenue Committee if I wasn't already serving on the Judiciary Committee.

FRIESEN: Thank you, Senator Lathrop. Anyhow, I mean, I look at the budget, and again, I'm not happy that we really did not prioritize property tax relief the way we should have, or I don't feel we did. And so we're going to continue to work.

FOLEY: That's time, Senator.

FRIESEN: Thank you, Mr. President.

FOLEY: Thank you, Senator Friesen. Senator Vargas.

Floor Debate
May 21, 2019

VARGAS: Thank you very much. Colleagues, I rise against AM1866. I think you probably knew that. I would like to take a second to thank Senator Erdman, wherever he may be. You know, we did have a nice conversation off the mike last week, and it was a good conversation. I don't think we have enough of these. I think we make the assumption that we spend all this time with each other in committees and then we know everything about people's wants and needs and it's just not the case. I mean, just think about how much time that we get to spend with each other here, when we're talking and debating. We're not really digging into understanding each other's issues and what they care about. I think that's a reality. And it's what I hope in the off-session that we spend more time with each other to understand our districts so that we can get a better understanding of the perspectives of what the weight is, because it is different for different places. It was nice to hear him say he cares about the providers rates-- then I confess to something that we-- it wasn't something that we had a conversation about, I didn't know. However, I also think this is incumbent upon us. I think, we-- to some extent we bring the priorities that we care about. So I know this is an amendment and I know this is the last week that we're going to be having this conversation, but we bring bills that we care about. And the difference between the committees that are policies specific and what we do in Appropriations is you bring bills that you care about, you prioritize them, we have a discussion around them, and then they have their time. In the Appropriations Committee, we are there all the time. I'm sitting next to Senator Dorn, we're talking about things he cares about, doesn't care about. I'm sitting across from Senator McDonnell and Senator Clements and we debate and it is an iterative process. And what I mean by that is we are just having conversations constantly about different issues. There is nothing barring any member from bringing up and saying, let's stop and let's-- this really matters to me, we need to double down on it. In fact, that happens more often than not. I know you can't see that, but that is exactly what happens. Now, we do have a process. We don't sit and then say, let's just look at only the priorities and then we sift through what we are or not going to have a discussion about. We have to make sure that every single agency that has submitted a specific request to the Governor, and the Governor submitted a request, we go through each one and then weigh whether or not it is valid or not. We look at past historical data. We weigh in with our amazing Fiscal Office and Fiscal Analysts because they have so much information. And in that process, we figure out what has and is, been a priority for our body. During that entire process, every single member has the ability to weigh in and say, I want to bring a new motion. I want to bring a new position. I want to add or subtract something from an appropriation, and in that process we debate. It is a debate in there. Not in a bad way. It's just a positive civil debate. It's one of the favorite parts about this body that we can do that in there and sometimes we lose and sometimes we win. And in this instance, I don't want to think we're losing and taking-- saying that one entity is more important than the other. Because if that's the case, I can tell you so many things in my first two years that we cut substantially because we had to, and I felt like we really lost. I really did. If you think that the 3 percent is not-- is overwhelmingly high and that we are overspending in government, again, the facts are very clear.

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

Floor Debate
May 21, 2019

Since 1990, when you're looking at our Appropriations Committee, specifically in our first two years, we cut the budget about negative .3 percent and 1.3 percent growth on average.

FOLEY: One minute.

VARGAS: That's what we did in our first two years. That was one of lowest amounts of growth that we've seen in what we appropriate in the last 20 years. So I don't want it to sit out there that we are not having a debate in there about what our priorities are. We absolutely are. I don't want it to be out there that we're not trying to consider how we reduce or we're more effective with our spending. We absolutely do that. But the problem is, and I think that's what Senator Erdman brought up, is that there are times where we may disagree with each other on what those priorities are at times and that happens and that has to be OK. We're never always going to have-- we don't always have 9-0 votes. Sometimes we have 5-4 votes, sometimes we have 9-0 votes. All I'm asking you to consider is, we brought out a budget that was 7-2 and now we're in the final stages.

FOLEY: That's time.

VARGAS: Thank you.

FOLEY: Thank you, Senator Vargas. Senator Halloran.

HALLORAN: Thank you, Mr. Lieutenant Governor, colleagues. When I ran for this office and we all went door to door, we've heard each other's stories about meeting with our constituents, not one time did I have a constituent say, you know what you need to do, you need to increase the funding to the University of Nebraska. Now they didn't say you need to decrease it, but they never once said you need to increase the funding to the University of Nebraska. What I did hear a lot from were providers who weren't-- who are underfunded taking care of the most vulnerable people we have, and those providers themselves didn't vote for me, but they represented people who they were taking care of in the constituents that were relatives of those individuals in those care facilities. So I hear people say, it's a false question that Senator Erdman is giving us. And I commend Senator Erdman for returning this to Select, or attempt to, to amend it. It's not a false question. It's a question of prioritizing. It's a question of where do we put the money that's most needed by the most vulnerable. So if you went door to door and had a different experience than I did, then maybe my community is different. The only input I got from people in my district about the university was talking about Scott Frost's football team and the potential basketball schedule, football schedule, but they weren't talking about the University of Nebraska needing more funding. Now, on this floor I have brought up several times and it has been countered by other senators that I'm wrong, but the University of Nebraska is not the most efficiently-run

Floor Debate
May 21, 2019

agency we have. We have at least three-- we have three corporate headquarters. We have one in Kearney, one in Omaha, one in Lincoln for the respective universities at those locations and they all have the same hierarchy of administration. Very expensive. Now we can't tell the university what to do, we can't micromanage them. The Supreme Court ruled, Exon versus the Regents, that we can't do that. They have to manage themselves. The Regents have to manage the university, but if they can't find themselves the fortitude to consolidate some of the administration process, and save the state some of that money, then we just need to pull back a little bit from them and force their hand. So providers are something we need to look at. It's not a false question. It's a question prioritizing. I've heard people come to the mike this morning who have come to the mike before saying the same thing that provider rates are important, but now they're saying, well, there not quite as important as the University of Nebraska. With that, I return the balance of my time to the Chair.

FOLEY: Thank you, Senator Halloran. Senator Groene.

GROENE: Thank you, Mr. President. I applaud Senator Erdman on his compassionate, conservative concern about extended care homes in rural Nebraska. It is one of the biggest problems we have in rural Nebraska, as far as our elderly, is that we are losing our-- what we would call retirement homes, we are losing them, they're closing. The limited amount of Medicaid beds are being bought up by big institutions and moved to the city and they close the small rural ones. I hear people from the east tell me, and the university saying we bought a van and a semi and we go out to these rural counties because 25 counties don't have dentists, 30 counties don't have a lawyer. We can address this now so we don't have 40 counties that don't have an extended care facility for our poor elderly. We can address it now with provider rates. I agree with Senator Halloran, nobody has asked me to fund the university more. They asked me to get a football coach fired, which I don't have that authority. But I am a supporter of the university and I'm sure Senator Halloran is too and Senator Erdman. I got a degree from there, it served me well. But support for something doesn't mean you also support throwing money at something. And that's what we do. We just throw money and try to translate money as to outcome of the university. It is a service entity. It doesn't need the money every year. It can negotiate different salaries of the six-figure income professors and administrators that work there. It could take away-- did you know-- did the body know this university know this, the populace know this, if you work for the university you get up to \$25,000 free tuition for your family members. Making 150,000, your kids go to the university free tuition up to \$25,000 if you have two or three kids at the same age. That's amazing. Really, we couldn't adjust that one year, the salaries to help these elderly people in rural Nebraska and in the cities? I have a question for Senator Bolz.

FOLEY: Senator Bolz, will you yield, please?

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

Floor Debate
May 21, 2019

BOLZ: Sure.

GROENE: Senator Bolz, nationally where do we rate in provider for Medicaid for extended care?

BOLZ: I appreciate the question. You mentioned that would be a question you had. I have a report from the Department of Health and Human Services. It looks like not every state reports, so we rank--

GROENE: Could you answer, you told me a number. I run out of time.

BOLZ: Yeah, 27th out of the 33 reporting states.

GROENE: Thank you. Twenty-seven, so we don't even know, we could be worse. Of the 33 that's reported, we're 27th. We're third in the nation according to State Higher Education Officers, SHEEO, which we're a member. We pay our dues to that organization. We're third in the nation per capita of support of the university-- of higher education. That's the state colleges and community colleges. Third in the nation. We're 27th out of 33 as reported on taking care of our elderly with Medicaid payments in rural Nebraska who need a place to stay and be near family. Is the university going to create a van like they do with the dentist and go out there and supply beds for these people who want to stay where they grew up, where they lived all their lives, and they want to stay in their community? Senator Erdman has made an amazingly good point on this. What is our priorities? What is our priorities? How much is the new president of the university going to get-- make and how much more are they going to give him? We don't know because those of you that were here, remember the fight on the open process? We took that away. The public don't know what's going on right now behind closed doors negotiating for a new-- I believe president is the title, where Bounds resigned. Yes, we can be for higher education, but we can also be frugal. With a state of 1.9 million people, what is our priorities? What is it? It's time for some urban senators, who all the jobs for the university are concentrated there, that's why it's economic development. I know why you support the university. High paying jobs, property taxes, helps the business community with all those employees. It's time to look west and northeast and say how do we help rural Nebraska and the elderly so they can stay in their communities when they are incapacitated and need extended living homes? I don't know how you can defend being third in the nation on higher education support and 27th out of 33. We're probably lower.

FOLEY: That's time.

Floor Debate
May 21, 2019

GROENE: Thank you.

FOLEY: Thank you, Senator Groene. Senator Albrecht.

ALBRECHT: Thank you, President Foley. You know, I'm very happy that Senator Erdman gave us all some time to speak this morning because it's hard to get in the queue when others want to speak. But, you know, I sat through many budgets on the city council for years, on a county board for years. But this particular budget, while I appreciate what Appropriations has gone through, what all the people they have to listen to, all of the asks that they have to listen to, but what I'm most concerned about, and, please, you know, just understand, this is constructive criticism, just constructive. You shouldn't be offended by it. But we don't, as you don't, probably analyze all of our committees that we sit on, when we have a chance to stand up and talk about this, we're not upset with things. I mean, we disagree. We have to agree to disagree. We have different ideologies. But as a fiscal conservative, going back to my district after three years and seeing no property tax relief, when I do believe it's the number one issue in our state, property tax relief. I don't care if you live in the city or if you live in the rural area, we must address that. And knowing that we have Medicaid expansion coming up, knowing that we have Corrections with an issue, we have many different items that we have to take a look at. And if two years ago, we could come down on so many agencies and ask them to cut expenses, I don't hear that many people, except the people that have-- these nursing homes and they can't afford to pay their people to come in and take care of our elderly and our sick, that's the only thing I've heard about. I haven't heard from everyone else that, geez, they just took too much away from us. But an issue that I want to address that I was somewhat taken back by, if a union asks for a certain amount, or negotiates a certain amount for their wages, and then for the-- I don't know who exactly came back and asked for .3 percent-- three-tenths of a percent of an increase, do you all have any idea that they didn't-- the Appropriations didn't give them 2.3 as they asked to be the same as the unions. And we don't even know what the unions negotiated within their contract, but they just said, gosh, they're getting it so we'd like to have the same. So instead of giving them 2.3, they gave them 2.2. But that is a \$4.4 million price tag over a two-year period, 4.4 million is just two-tenths or one-tenth-- actually two-tenths of a percent. And to me I just feel like, you know, I would expect people to cut spending in any way they can. I remember two years ago, we were all trying to figure out what can we do, what can we do, and finally the Governor said, you know what? Instead of-- and I was in a meeting that we talked about it. I said you can't just go after the top three, the biggest moneymakers, or that get the most money out of our budget, you need to go across the board so that everybody feels what's going on here. But we're not out of the woods yet. I mean our commodity prices in the ag sector are not there yet. We have beef that we don't know yet if China is going to work with us or not. Thank goodness, Japan and Mexico and Canada decided to. But we have got to improve our economy before we can start haphazardly giving these raises to people--

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

Floor Debate
May 21, 2019

FOLEY: One minute.

ALBRECHT: --without knowing that every penny counts. And it's the constituency that we represent, it's their money and we have to be the most frugal with it. And I just want people to understand that every single item, every line item, you know, and I could only find out from the two people that chose not to vote this out of committee. I'm voting for six of the seven, but I cannot support LB294 with some of the line item issues that I've taken a look at. So with that, I yield my time back to you. Thank you.

FOLEY: Thank you, Senator Albrecht. Senator Erdman, you're recognized, your third opportunity.

ERDMAN: Thank you, Lieutenant Governor. I appreciate that. So I have good news. I have in my never nicotine-stained fingers a copy of the amendment that will allow the \$7.3 million that we're discussing to be transferred to HHS. It's a Bill Drafting, and they will have it in a short period of time. So even though I didn't start with that, the Fiscal Office, Mike, did a good job of writing this up for me, but I'll have it and I'll bring it to the front when I get it. I was listening to Senator Vargas' comments about we've always increased spending by 3 percent. We've always done something. There was a time, only once, and perhaps Lieutenant Governor Foley was in on this one, in 2001 the state was short about 750 million on \$2.5 billion budget, which was 30 percent. And that legislative body met in October of 2001, and Senator Vargas, it was probably the only time that the Legislature made cuts. And they cut 10 percent out of everybody's budget and they went home, HHS, road department, university, everyone, they went home. Every one of those agencies are still here. They can do it. They can make it work. So, let me explain a little bit of what happened over the weekend. You heard from a gentleman that said he removed his name from the petition drive because he didn't think a petition drive had a chance. Well, I got caught in this predicament back in '17 when I trusted some people to do the petition drive that stabbed me in the back. OK? So, this time around we've done it differently. All right. We have numerous people involved in the petition drive, so the one person that's whining-- whining, I'm going to use that word literally, --whining about they didn't do it my way. I'm upset because I'm not part of the leadership, or whatever reason he has, says he has withdrawn his name and the petition is going to fail because I'm not part of it. Big deal. Let me tell you. That petition is signing itself and we are collecting signatures like it's going out of style. And so what I'm here to tell you today, I'm not threatening you, I'm not trying to coerce you into doing something, but let me tell you what. In 2021 when we come back, we're going to talk about a 35 percent reduction in your property tax. Because you see, we won't make a decision here about property tax relief. Next year we won't make a decision about property tax relief, but I guarantee you the following year we will. So the petition is alive and well. Don't believe everything you read in the newspaper that somebody says. I'm not disparaging what Don Walton wrote. He wrote what the person told him. But I'm here to tell you that this thing is moving forward. And when we get the signatures

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

Floor Debate
May 21, 2019

required, and we will, we will have it on the ballot in 2020. And the last poll that I seen, 79 percent of all Nebraskans think property tax is a number one issue. And I guarantee you that's the case here. It's a case in Lincoln, Omaha, Scottsbluff, and any place in-between. We're going to go home early. We're going to go home early. Why are we going home early?

FOLEY: One minute.

ERDMAN: Well, it's because we've accomplished everything the Speaker wants to accomplish. Senator Wayne stood up last week and said, why don't we ever do something? Why don't we accomplish what we're supposed to accomplish and been sent here to do? I don't know. But I'm not one in favor of going home early. What I am in favor of is do-- doing what the people sent us here to do. Lower taxes. Cut spending. But as you've heard this morning when I'm trying to help fund long-term care providers, the discussion quickly goes to how important the university is irregardless of how we're funding long-term care providers. I appreciate what the Appropriations Committee understanding is of the budget. Those people have been there, as Senator Wishart said, several years. They get it. They understand it. Hopefully--

FOLEY: That's time.

ERDMAN: Thank you.

FOLEY: Thank you, Senator Erdman. (Visitors introduced.) Continuing discussion, Senator Brewer.

BREWER: Thank you, Mr. President. Good morning, colleagues. Senator Wayne's comments last week evidently had more effect than I realized in my district. He probably is the second-most popular senator. Senator Erdman, of course, being the first. But his comments hit home in that it was basic. It was to the point. It asked a question that we are not going to be able to answer this session, and so over the weekend I got caught in a couple of crossfires with people who wanted to know why I was voting for the budget if I had no input in it and if I didn't support the fact that we're not going to have any property tax relief. It made for some very difficult times and difficult questions that needed answered. So I voted red on the first vote this morning. I'll be continuing to do that even for the pay for the Legislature. We are not providing any relief, or in essence payback to the people for what they have contributed. So I don't think it's probably fair for us to take any wages until we figure this out. But nobody seems to want to have that issue stick. We're going to go ahead and kick the can down the road, we're going to get through this year, we're not going to really, truly address it. And the problem is, it isn't just my district. If you look, five of us represent western Nebraska between Senator Hughes, Stinner, Erdman, myself and Williams. If you take Broken Bow on west, that's pretty much it. Winter storms have not been kind to them,

Floor Debate
May 21, 2019

the flooding, the low livestock prices, and the loss of livestock have put them in a position where you're going to see unprecedented losses this year and it appears to them that we just don't care. We're going to go ahead and go through the session. We're going to finish this out, we're going to go home early, and, obviously, if we cared, we would have stuck this one out. So, I, after much counseling from fellow 43rd District persons, have decided that I'm not going to vote for this budget. And I hate doing that in a sense, I think Senator Stinner has done a yeoman's work in trying to sort the budget out, but with some of the discussion earlier this morning, we get the big orange book and I've got a ton of tabs and highlighting in there, but you get it at a point where you're not going to really affect it. It is what it is. You don't really understand it as well as you'd like to, no matter how much you read it, how they came up with those solutions. So this discussion earlier between Senator Erdman and the other members of the committee, I think, are valid that we need to see more sooner or else it's hard to really move forward with a budget with a full heart. Property tax relief, I believe, is dead. We'll see what happens in the next few hours, but right now when they started confronting me on the issue of property tax, I said, listen, I have presented property tax bills every year. Even if it's as simple as my LB158 which it freezes taxes for four years. Three years ago they thought I was crazy. Why would you want to freeze it? We don't want to freeze it, we want it to go down. Well, it didn't take long to figure out that freezing it would have been a blessing compared to the increases that we've had. But that would mean having to draw in the purse strings and actually manage things if we capped the budget and we don't let it go any higher. It doesn't mean it can't go lower, it just means it can't go any higher. So I've got a bill that's-- I'm sorry, an LR that's in Education, LR5CA, and it's real simple. It simply says that we can only spend 33 percent of the budget from property tax for education. So I got a letter here, signed and ready to go to the Chairman of Education asking for that bill to come out. Don't know if it will or not. But it will be a chance for everyone to really size up whether or not they want to support property tax and put their fingerprints on it, and the ones that just want to be-- ride along and not be committal, which I think a good share of folks would just as soon get through it and not have to commit one way or the other, they'll get their chance. And lastly, when it comes down to the issue of the petition drive, I think that folks are asleep at the wheel if they don't understand this thing is about to catch on fire. And on the 31st day of May, if we don't do anything, which I honestly believe we will not, you wait and see what happens with that. It will be on the ballot and when people have to look at that ballot and make a decision whether to lower their property taxes or have medical marijuana, I think I know which way they're going to go. Thank you, Mr. President.

FOLEY: Thank you, Senator Brewer. Senator McDonnell.

McDONNELL: Thank you, Mr. President. Good morning, colleagues. Senator Erdman has put a number of hours into the work on Appropriations and so has eight other members. As we go through the process, this being my third year, it's not a-- it's not an easy process. And as I've stated a number of times, our strength is we disagree and then it only becomes a weakness if we

Floor Debate
May 21, 2019

don't compromise. This budget is a compromise. There's not everything in there that I wanted. There's a number of things that were eliminated or reduced. The idea that we are going to look at the greatest generation and take a dollar from them, who could ever do that? That's not what we're trying to do. We're trying to look at a budget, approximately \$4.7 billion a year, and how do we spend that money to help the citizens of our state. And those aren't easy decisions to make. Can this process be improved? Yes, it can. Should we have possibly something from the Revenue Committee earlier in the session? Should we possibly instead of on a 90-day session instead of day 70, should we say, oh, we have to have our proposed budget to the remainder on the floor by day 65? Those are all ways to improve the process. But we are currently working within the process. Some people are saying we got nothing done this year. Well, we've had 739 bills introduced. Every one of them had a public hearing. We've got 172 bills right now that we passed that I believe the Governor has signed. We have done things. Have we done them as quickly as we want? No. But making or changing a law shouldn't be quick. It should take us time. A budget should take us time. This is part of the process. Yes, I understand a number of you want more input into the budget. I believe every member of the Appropriations Committee would welcome that. We don't have all the answers, but we spent four months working on this budget. Could we spend eight months on this budget and had probably a better budget? Sure. But there's a certain point where we have X number of dollars, we have X number of requests, and we have a number of things that we are saying no to that will help the people of Nebraska, and those are hard decisions to make. I think Senator Erdman has worked hard and that's why I'm going to yield the remainder of my time to Senator Erdman.

FOLEY: Senator Erdman, you've been yielded 2:00.

ERDMAN: Thank you. Thank you, Senator McDonnell, I appreciate that. As Senator McDonnell said, he served on Appropriations Committee and I appreciate his service there. We did go through that budget many times, twice in fact. This is reminiscing a bit, but I want to share some information with the new people who weren't here in '17, we got to this point in the discussion in '17. And I wasn't at all pleased with that budget because I had a feeling that the revenue was not going to be there. So I had introduced an amendment to adopt the prior year's budget after we had taken 80 million out. That's the first thing we did when we got here in '17. We reduced the last year's budget by 80 million. So I introduced an amendment that would have adopted the year prior budget after amended, and the Speaker said, your amendment doesn't have a chance and I didn't realize why it wouldn't have a chance. It made sense. And it's because he put me on at 8:15 at night, we had been here already 12 hours. And then he went around and asked people to call the question so we could go home. I spent 45 minutes talking about the budget. We took a vote. I got 19 votes, needed 25. I made a comment that said, this budget is \$250 million too high. October, 2017, the Forecasting Board met and they said, the state is short 232 million. Huh. Imagine that. So if we had adopted the budget from the prior year, we would have been right on the money. Now, we don't do those kind of things. We continue to spend

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

Floor Debate
May 21, 2019

everything we get and everything we think we're going to get and we call that structural balance. So here we are again, another budget cycle, another spending cycle, and we're going to do what we always do because that's what we've always done. This amendment, if we bring it back to Select File--

FOLEY: That's time.

ERDMAN: --we'll transfer --did you say time, sir?

FOLEY: That's time.

ERDMAN: Thank you.

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

CLERK: Senator Stinner would move to invoke cloture pursuant to Rule 7, Section 10.

FOLEY: It's the ruling of the Chair that there has been a full and fair debate accorded to LB294E. Senator Stinner, for what purpose do you rise? Yes, we're on Final Reading. All members will need to check in before we take a vote. All members please check in at this point. On Final Reading, cloture vote, check in please. All members please return to the Chamber and check in. It's a cloture vote pending. Senator Stinner, at this point we're lacking Senator Chambers. We think he may be at the Supreme Court. We don't know for certain where he is at this point. We can wait, we can try to find him, or we can proceed. We'll wait. Would one of the Red Coats please assist in locating Senator Chambers. Senator Stinner. We'll proceed. Thank you, Senator Stinner. The immediate question before the body is whether or not to invoke a motion of cloture. A roll call vote has been requested. Mr. Clerk.

CLERK: (Roll call vote taken.) 39 ayes, 8 nays, Mr. President, on the motion to invoke cloture.

FOLEY: The cloture motion is successful. The next vote is on Senator Erdman's motion to return the bill to Select File. Those in favor of returning of the bill vote aye; those opposed-- roll call vote has been requested.

CLERK: (Roll call vote taken.) 13 ayes, 34 nays on the motion to return the bill.

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

Floor Debate
May 21, 2019

FOLEY: The motion is not successful. Our next vote is to dispense with the at-large reading of the bill. Those in favor of dispensing with the reading vote aye; those opposed vote nay. Record, please.

CLERK: 35 ayes, 10 nays, Mr. President, to dispense with the at-large reading.

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

CLERK: Mr. President, LB294, a bill introduced by the Speaker at the request of the Governor. (Read title of LB294.)

FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB294E pass with emergency clause attached? Those in favor vote aye; those opposed vote nay. Record, please.

CLERK: (Record vote read.) 35 ayes, 12 nays, 2 present and not voting, Mr. President.

FOLEY: LB294E passes with the emergency clause attached. Proceeding now to LB295E. Mr. Clerk.

CLERK: (Read LB295 on Final Reading.)

FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB295E pass with emergency clause attached? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: (Record vote read.) 43 ayes, 4 nays, 2 present and not voting, Mr. President.

FOLEY: LB295E passes with the emergency clause attached. Our next bill is LB296E.

CLERK: (Read LB296 on Final Reading.)

FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB296E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

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

Floor Debate
May 21, 2019

CLERK: (Record vote read.) 47 ayes, 0 nays, 2 present and not voting, Mr. President.

FOLEY: LB296E passes with the emergency clause attached. (Visitors introduced.) Our next bill is LB297E. Mr. Clerk.

CLERK: Mr. President, Senator Erdman would move to return the bill for a specific amendment, AM1868.

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

ERDMAN: Thank you, Lieutenant Governor. Been a while since I spoke, so I thought I would get up again. This amendment is very simple and straightforward. What it does, it takes away the million dollars appropriations that Game and Parks asked for land acquisition. And you say, why is that important? Let me share a couple of reasons. One, the Game and Parks people have enough land. When I spoke with some of the people over there a couple of months ago they said, do you realize that we pay over \$1 million in property tax? I said, oh, maybe you have too much land. Then they go on to say that wildlife preservation is important or a priority for the majority of Nebraskans, and I totally-- I totally agree with that. For you see, 70 percent or more of the people in Nebraska live in Douglas, Lancaster, and Sarpy Counties, so I can readily agree that they think wildlife preservation is important. But what they don't ask is the people feeding them, the people whose property is destroyed, their produce that is eaten, the revenue that is lost from the Game and Parks animals, the state's animals. So Senator Brandt, if I ranch near your farm and my cows get out and eat your hay, you're a little upset and I'm responsible and I have to reimburse you for the damages and the hay they've eaten. But Senator Brandt, if those are elk, deer, antelope, or whatever wildlife the state has comes on your property and eats your hay, guess what? You pay for it. And that's what's happening. So when 800 antelope show up on your quarter section of wheat or triticale in the fall that you planted to keep your ground from blowing and they destroy every green blade of wheat or triticale, every one, and your land starts to blow, you have no repercussions getting any money back. No, no compensation. But they belong to the state. So the elk come on to your property, if you live in southern Morrill County, and they destroy enough corn and cause enough damage to your ranch, it costs you \$100,000 a year. Oh, you get reimbursed for that, right? No, you don't get a dime. It's time for us as a state to step up and start reimbursing these people that are taking care of these animals. So they bought another 80 acres in Banner County recently and the reason was is because they were landlocked and couldn't get in from the east side so they bought this 80 acres. Their intention is only to buy 1,500 acres a year in additional acquisitions, just 1,500. I contend they have enough. I contend that they keep this money in their cash reserve because they're going to need it. Because if I have anything to do with it, in the next year when we come to introduce bills, I'm going to introduce a bill that makes those people pay for the damages the animals cause. I get-- I get it that hunting

Floor Debate
May 21, 2019

and guiding and those things are important to the state and tourism and those kind of things, but I also get this, is that those people feeding these animals, those people taking care of these animals, those people fixing their fences once they destroy them, those peoples' livestock that's killed by these predators, they're just out. Thanks for making a contribution. I have ranchers tell me they stock their pastures about 60 percent because the elk eat the other 40 percent. That is not right. So we need to do something about that, so here's a start. We take this million dollars, it's a cash funding deal. We take this million dollars and we put it into a fund and we get ready. We get ready to start make contributions to those people who have destroyed property. I know this is a difficult lift for some people because if you don't live in a district where the animals are an abusive thing to them-- to your voters, your residents, it doesn't mean much. But we in rural Nebraska understand and we get it, and we pay for it, and we continue to pay for it. And the more land they buy, it's more wildlife that are able to be raised there, more wildlife the more damage. So what this bill does, this amendment, takes that million dollars and leaves it in their cash fund so that we can use it next year when I bring a bill to make compensation. So that's what the bill is. I would encourage you to bring this back this back Select File. I missed it on General File, but bring it back to Select and let's make this one count. One of the things that we do in Appropriations is if money comes from a revolving fund or a cash fund, we don't talk much about that, not much heartburn from that regard. It's still money. It's still Appropriations. So this is a chance for us to make a decision to help people who are suffering under the damage caused by the Nebraska wildlife. Thank you.

SCHEER: Thank you, Senator Erdman. (Visitors introduced.) Senator Hughes, you're recognized.

HUGHES: Thank you, Mr. President. Good morning, colleagues. I won't take a lot of time on this, but I do appreciate Senator Erdman pointing out the fact that we do have a problem with Game and Parks in the state. I will first start out that they do pay in lieu of property taxes on their wildlife management areas, they do not pay on public recreation areas. And I think that is an important distinction. But getting back to the challenges that we have of feeding the state's wildlife, Game and Parks does come under the jurisdiction of the Natural Resources Committee of which I'm a Chair. So we have looked extensively at this and have done some research and this is with information garnered from Game and Parks and other sources. But if you take just the deer population in the state of Nebraska and you figure out what the average amount of feed that they eat a year and if you take that times \$3 corn, it comes out to about \$60 million a year that it is costing the landowners of the state of Nebraska just to feed the deer population. And if you add in the damage that is done to vehicles and the damage that is done to individuals who are in those vehicles, you're getting close to \$100 million a year that wildlife, specifically deer, are costing Nebraskans. Game and Parks is profiting from that. That's their charge. I have no problem with that. But if you look at elk, which are infinitely more destructive than deer when it comes to bedding down and the amount that they eat, and the antelope population is certainly

Floor Debate
May 21, 2019

increasing and turkeys, I mean, there are turkeys everywhere and they are very destructive to crops. So I do appreciate Senator Erdman bringing this issue up and we will be hearing more about this. I'm trying to find a way to allow Game and Parks to reimburse landowners for crop damage because it is a very serious issue in certain parts of the state. If you're close to a river bottom, there is a tremendous amount of deer traffic that goes across your property and they eat a lot of corn, whatever. I have raised this issue with Game and Parks and they were kind enough to hold some meetings out in my part of the world, the Republican River Basin, where it is a big problem. And interestingly enough, one of their remedies, and this was printed in the paper, was for farmers, you know, you should plant deer-resistant corn. There's no such thing as deer-resistant corn. If those are the type of answers that we're getting from Game and Parks, we have a serious problem. We have a serious problem in the state of Nebraska. For whatever reason, the wildlife is doing well, you know, and we all enjoy seeing wildlife. When I was a kid, if you saw a deer, that was really something. But just this last, about three weeks ago we saw antelope on our land, I've seen elk on our land, and deer are a problem, turkeys, and this is wide open spaces, this is not trees, this is not river bottom, this is flat farmland. And a lot of prairie chickens, I'm amazed at how prairie chickens have repopulated in our area, have adapted to our farming practices.

FOLEY: One minute.

HUGHES: This is a challenge that we are going to have to deal with. Whether this is the route, I don't know, but you will be seeing legislation brought by me in the future allowing Game and Parks to raise additional money from the people who are benefiting from this wildlife, the hunters and fishermen, that they are the ones that need to be paying the bill, paying the feed bill. Paying the bill to raise this because the bill is getting very large for the landowners of the state of Nebraska. Thank you, Mr. President.

FOLEY: Thank you, Senator Hughes. Senator McDonnell.

McDONNELL: Thank you, Mr. President. Again, I rise to disagree with Senator Erdman. Not on the basis of trying to make improvements possibly with a bill next year, because I'd like to have that discussion, but if we look at what Game and Parks is doing, and it's kind of an education for all of us if we look at our ugly orange books here and look at Agency 33, you can look at some of the discussions we had in Appropriations over that four months with looking at agency after agency. Again, the \$1 million out of the Cash Fund that they will expend was discussed amongst the nine of us and you got to get the votes. We decided to go ahead and OK that internally within Appropriations, and not disagreeing with Senator Erdman's arguments about is there coming from the eastern part of the state, Legislative District 5, is there things going out there in the western part of the state, and trying to be a state senator, not just represent Legislative District 5,

Floor Debate
May 21, 2019

but being a state senator, east, west, north, south in our state, we're supposed to work on that. We're supposed to look at those issues. So, yes, he's from the western part of the state and on a number of things, he's my subject matter expert. He's got different life experiences than I do. He brings different things to the table. But, again, we had those discussions. Here we are with a few days left in the session and we're talking about Agency 33, which I'll have that discussion if Senator Erdman wants to bring a bill next year. But also I don't want to lose focus on what a great job the Game and Parks does for our state and all of their work and all of the information they gave us during the Appropriations process. And I want to thank Game and Parks and again, disagreeing with Senator Erdman, but I will yield the remainder of my time to him.

FOLEY: Thank you, Senator McDonnell. Senator Erdman, 2:50.

ERDMAN: Thank you, Senator McDonnell. Let me share what I did on Saturday, even though it was 49 degrees, I went fishing. Went to Box Butte Reservoir, and Senator McDonnell, you'll be pleased to know that I am very impressed with the new dock they put in there. It is very efficient, works well. I appreciate that. Game and Parks does certain things well. I'm not contending that they don't. But the problem we have and will continue to have until we figure out a way to reimburse these people, as Senator Hughes alluded to, just the deer alone, astronomical amount of feed, just the deer. That didn't include the antelope, and it surely doesn't include the elk. And we have a lot of elk. And I shared with you on the floor before about a resident in Morrill County that loses over \$100,000 a year to elk. Several years ago when I was a county commissioner, he came in to protest his valuation and he made the following comment. He said, I lose more revenue to elk than I pay in property tax and he has a lot of land. He has a large ranch. And I questioned him. That's a significant number. And he said I can prove to you the fact that I spend over \$100,000 on destruction from the elk. And so he brought to my attention the loss in corn yield and what else he has to deal with because they tear his fences down. And he did not even include, Senator Hughes, he did not even include how much damage the deer do--

FOLEY: One minute.

ERDMAN: --but he's concerned about the elk the most. Thank you. So what I'm trying to do, I'm trying to cut back on their purchases of land. They've got plenty of land to manage and that way they won't have such a huge property tax problem. So on the Appropriations Committee they asked for a huge increase in Appropriations for pay their property tax. It was a significant number, far greater than the amount of taxes that could have possibly went up. And so we reduced that somewhat. But the point is, every year they buy more land, every year they have to pay more property tax. So when they take this land out of production, then what happens? All right. The person who used to ranch there, used to raise cattle on that property or whatever they did to that, that economic value is gone because now it's set aside for wildlife. If they put a big

Floor Debate
May 21, 2019

old fence up around their property and they keep their wildlife in there, that would be fine, but that's not what they do. So in my area, if you don't want the elk destroying your hay pile, you have to fence it in such a way that they can't get it.

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

ERDMAN: OK. Thank you. So you build a fence to keep the elk out. So last fall, I held town hall meetings in all ten counties. At every one of those town hall meetings, Senator Dorn, every one, every one, when we got to Q and A, the comment came to wildlife. Antelope were mentioned at every one of the town hall meetings. Every one. Every one. We allow like 50 permits, whatever it is in our area, and we have thousands of antelope. Thousands. And when the antelope ate off the triticales that one of my residents, one of my voters had, they ate his triticales off to the ground, and I called Game and Parks and they said, there's no proof that grazing wheat or a fall winter crop reduces the yield. Well, let me tell you something, when they eat it off to the ground and you planted that early to cover the ground so it didn't blow and they've eaten it all off, it blows. And once it blows, you get zero. Zero. So don't tell me grazing winter wheat or triticales, or whatever you plant to hold your ground from blowing, the yield is not affected by the antelope. That's not true. And so people are pretty frustrated what happens when you go to these meetings to talk about wildlife, and Senator Hughes, I read that in the newspaper as you described, plant deer-resistant corn. So my brother sells seed corn and my neighbor sells seed corn, and so they had heard that as well. So I reached out to them and I said, do you have a variety that is deer resistant? And after they stopped laughing, they said no, but some of the plant breeders are working on a hail resistant corn. There is no such thing as a deer-resistant corn. And so when you attend a wildlife meeting to explain to those people the damages you receive and you hear an answer like that, you are really, really pleased with their concern for your crops. It's better to say nothing than say something like that. So this is an opportunity for us, Senator McDonnell, to leave that million dollars in a cash fund that we can use in the future. I'm not saying they don't manage their recreational areas as they should. They have some improvement that can be done there in some of those smaller areas as well, but that's not what I'm talking about. I'm talking about the damage that these animals do that you heard Senator Hughes explain how much it costs to feed the deer a year. This is a chance for us to help them. So, vote to return it to Select and vote for the amendment. Thank you.

FOLEY: Thank you, Senator Erdman. Senator Hilkemann.

HILKEMANN: Thank you, Mr. Lieutenant Governor. I just want to just briefly get up and I heard the comment today that we're doing nothing for property taxes, we're doing nothing for property tax relief. Well, I want you to turn to page 26 of the budget book if you will. And you will find that we are presently going to put in 275 million-- 275 million into the Property Tax

Floor Debate
May 21, 2019

Relief Fund. That constitutes 5.9 percent of our total budget, 5.9 percent. I was at one of the dinners that we-- were frequently invited to, and there was a gentleman, a farmer, central Nebraska, was, quote, my host at this event and he was rather in a snarly mood when he met with me. He said what have you done? What have you personally done to lower my property taxes? And I said, well, I said when I was a freshman senator on the Appropriations Committee we added \$62.5 million to the property tax relief. Not enough. It's not enough. And I said every year I have voted our budget out of committee which has gone from 204 million in the property tax relief to 275 million. I have always voted to bring this budget out. So when I talk to people, when they say you're not doing anything for property tax relief, I say, well, it now constitutes almost 6 percent of our state budget issues simply for the Property Tax Relief Fund. And if you go down those lines, you will see that our university budget is at 645 million, our Medicaid is at 860 million, our TEEOSA is at a billion 39, and then if you flip it over, you do the cash funds, our cash funds are 275 million of the Property Tax Relief Fund. So I just-- when people ask you that question, well, you're not doing anything for property tax relief, we are. We are. Is it enough? Probably not. And I would agree with you. And I hope that we can find a solution to this property tax issue. And so, I just-- those are my concerns. I just think that people think we're not doing anything. Is it enough? Probably not. And I would be the first there, and I've shared with some people on the Appropriations Committee-- or the Revenue Committee the results of the survey that I'm getting from my district. And the people of my district are starting to lean to the fact let's get rid of the Property Tax Relief Fund and let's put that in school education. Let's do direct money into our-- because people are thinking --they don't realize how much of our dollars. We even had a postcard sent out from the administration four years ago to advise people that we had we put money into the Property Tax Relief Fund. So many people don't even realize they're getting it. Those of us who are not-- do not have farm --and my, the farm land that I own, I get \$700. So that's fairly significant amount of money. On my home, it's not that much.

FOLEY: One minute.

HILKEMANN: And so, anyway, I just challenge you. When people say to you we're not doing anything for property tax relief, we are. Is it enough? Probably not. And I would be first in line to say let's find a solution on a long-term solution for school funding and for our property tax. At that, thank you, Mr. Lieutenant Governor.

FOLEY: Thank you, Senator Hilkemann. Senator Clements.

CLEMENTS: Thank you, Mr. President. Yes, well, I was in the queue and cloture was called on LB294. I was going to mention why I was going to vote no. I did vote no on LB294 because I did oppose several of the budget items in individual committee votes in the Appropriations Committee. But I did not succeed on any of those. The ayes had it each time. And so I think now

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

Floor Debate
May 21, 2019

that LB294 has passed, I'm hoping the Governor will veto several of these items and I plan to support cuts if the Governor offers some. I turn your attention to the green General Fund financial status page that's attached to the agenda. And at the very bottom line, near the bottom, line 35, variance from minimum reserve, the negative 2.98 million. If there are a number of bills pending on Final Reading and Select File that have A bills, appropriation bills, additional spending, if we approve all of those A bills, we're going to end up \$2.98 million short which is against our Constitution and I don't know what we're going to do about that. But I caution you about voting for any more A bills because there isn't funding to fund them all. I believe the judges salaries is probably the largest one. I think there is room for that one, but probably not much else. This LB297 does have some good parts in it. The Game and Parks item is just a small part. The additional prison beds for Corrections is in this LB297 and I support that, probably support the rest of that, but I do support Senator Erdman's AM1868 in Game and Parks. He asked in our committee in the hearing if they were going to pay for the damages that their deer do to his district farmers and I don't think he got an answer. He didn't get a yes. I think it was just a non-answer. And so I think it's worth discussing. And I'm going to vote yes on the amendment. Thank you, Mr. President. I will yield my time.

FOLEY: Thank you, Senator Clements. Senator Moser.

MOSER: Thank you, Mr. President, and good morning, colleagues and citizens across Nebraska that are watching us today. I appreciate Senator Erdman's frustration with the budget process. I know there's a lot of work put into it and there are a lot of hearings involved and a lot of requests to sort through. But when it comes to the floor, the birthday cake is already baked and iced and the candles are lit and they roll it down the center aisle and we're expected to vote for it. And so I understand why Senator Erdman is entering some amendments to try to stir some discussion. On his previous amendment to reduce the budget, where he was talking about transferring 7 million from one expense to another, if we were going to be able to find a place to save 7 million, we should have just reduced it and not spent it somewhere else. When citizens talk to me about what the state is doing, the typical sentence-- opening sentence is, the state should cut spending. That's what the citizens expect. But there aren't votes in the Legislature to cut the budget further. We couldn't even cut a redundant study on the aging of Nebraskans as Senator Clements suggested. We already know citizens in Nebraska are aging fast, and spending 176,000, as I believe the number, to study something that we already know what the answer is before we study it and we don't have any money to spend to solve the problem if we do find the problem to be different than what we understand it. It just proves the point that there aren't enough votes in the Legislature to seriously consider cutting spending. The comment about the Property Tax Relief Fund being 5.9 percent of our budget, well, coincidentally, the amount of property tax charged across Nebraska is about the same as our total budget. And so, while it is 5.9 percent of the state budget, it's only a 5.9 percent, roughly, discount on all the property taxes in Nebraska. And if you talk to citizens across Nebraska, they don't think property taxes are off by 5.9 percent. They

Floor Debate
May 21, 2019

think they're off by 50 percent or more. I understand the problem. I know that this is the way that we've gone the last 20 years, but we can't continue to do the same thing over and over and over. Over time we're going to get to a spot where we can't make it add up. And so we need to look at cutting expenses. And so, if this budget passes, we're going to be done for this year with budgeting. But in the next biennium, we need to be smarter about where we spend our money, look and see what it does, see where that money should be spent to get the most effect. We had a fix-it bill where we were paying providers 2.9 million for some benefits there, some services they provided that the federal government wouldn't reimburse. But they survived without that 2.9 million how many months or years. And the mistake was made, nobody quite knows exactly who made the mistake and whose fault it is, but I think that is just a glaring example of how in some ways we spend money.

FOLEY: One minute.

MOSER: I think we need to look at how we spend it, where we spend it, and be smarter. We can't just continue to say, well, that doesn't cost that much. It's not that expensive. It's not that expensive, and you keep adding 50 things into the budget that aren't that expensive and pretty soon, it's expensive. So I understand Senator Erdman's frustration. And I appreciate the fact that he's got the motivation to bring it forward and I'm sure it frustrates a lot of people and-- but I think it shows that he's serious about budgeting. And, hopefully, in the next budget we can do more efficient, what I hope a better, more business-like manner. Thank you very much.

FOLEY: Thank you, Senator Moser. Senator Brewer.

BREWER: Thank you, Mr. President. Originally, I was just going to address the issue that Senator Erdman and Senator Hughes had, but I'm going to need people to shift a little. We'll make this a two-phase operation for you non-military minded people. First one on the issue of the elk, deer, antelope, as soon as Senator Hughes finished, my i-watch exploded with people making comments. And I think it's interesting that one of the comments they made was, it's fine and great that we have wildlife preserves, but they said what the wildlife preserves become is a predator reserve and those predators are unchecked so they push all the animals out on the landowners to then deal with. And so to buy more land and designate it, just compounds the problem. And an example they gave me was that there were dozens of geese that were nesting on their meadows because if they do it on the reserves, the coyote population was so great, that they would take care of the geese. So understand that some of these problems are almost self-induced. So the fact that the elk are incredibly hard on the fences and the landowners have to assume that, that they do eat the crops, that's a fact of life. There's no mystery here. And I was going to leave it at that until Senator Hilkeemann got up and then, of course, he helps to cause my i-watch to explode, too, and the landowners that hit me up said, listen, the issue is this. You're taking

Floor Debate
May 21, 2019

\$20,000 and you're giving me \$1,200 back and that's supposed to be a good deal. You got to feel for them. You got a 1,600 acre ranch, you got 400 head of cows, you're paying 72,000 in taxes, and then what you get back doesn't even cover your losses, and when you're a cattle rancher, you get one crop a year. So if because of weather and conditions you don't have enough crops to pay the bills, you're going to go two years without a paycheck. So, yeah, they may be a little surly. They may be a little angry. And it sounds great that there's \$270,000 in Property Tax Relief Fund but that money never, ever makes it back to anybody with enough to actually cover the incredible expense that we're putting on them in property taxes, it means nothing. And LB289 went a long ways towards giving that relief more in the high 30's rather than in the single digit. So with that said, thank you, Mr. President.

FOLEY: Thank you, Senator Brewer. Senator McDonnell.

McDONNELL: Thank you, Mr. President. Two years ago we had a billion dollar hole in the budget, that's what the Appropriations Committee was facing. Last year we had 173 million dollar hole in the budget. This hasn't been easy. We're talking about the Game and Parks. I appreciate Senator Erdman said earlier in recognizing the good work they do. I'm not standing here advocating for damage to someone's property. I'm saying that we should let the process which we've gone through for-- since January with Appropriations, and this is definitely part of the process, we're on the floor now talking about a cash fund that because of the money that the fees that the hunters are charged, that's how that cash fund has been built up. And to let the Game and Parks continue to go forward, at the same time I support the concept that Senator Erdman wants to have about protecting-- different ways of protecting people's property. But when we have the Appropriations process, is it perfect? No. I have learned so much every day I've been in Appropriations, and hopefully we can find ways to improve that. Just like I don't believe the Unicameral since 1937 is perfect. But I believe we are the best state government in the country because we do caucus on ideas and issues. We don't caucus by party. Every bill gets a public hearing. We have those discussions. We disagree and then we come together. That's part of the process what we're doing today. So I appreciate the new thoughts and ideas that Senator Erdman and Senator Dorn have brought to the Appropriations Committee. They're the two new members and there's going to be more discussions and ways to improve things and that should always be our goal. Because again, we're not perfect, but I do believe our process is the best approach of any state government in the country. So with what Senator Erdman is asking to strike in his amendment, if you look at it, is the Game and Parks Commission is hereby authorized to acquire and develop wildlife lands and waters statewide with the appropriation to this program. Again, through cash funds. I don't think we should stop that. Again, I'm not disagreeing with looking at ways to protect people's property. And coming from the eastern part of the state, I am willing to look to the western state senators to educate me on that and try to help craft a bill for next year. I will yield the remainder of my time to Senator Erdman.

Floor Debate
May 21, 2019

FOLEY: Thank you, Senator McDonnell. Senator Erdman, 1:50.

ERDMAN: Thank you, Senator McDonnell, appreciate it. Senator, you know, you bring up a good point there about things are different in my district than they are in yours and I understand that and I appreciate that. But your comments about bringing this to the floor and having a discussion lead me to believe that once we get the budget to the floor, as Senator Moser appropriately said, the cake has been baked, decorated, and the candles lit. We last week, whenever it was, we added the 25 million back to the Property Tax Credit Fund that we, the Appropriations Committee, or you, the Appropriations Committee, voted to take out. So that's why we have the discussion on the floor. I would be interested to see if you would be interested in helping me next year devise a bill that would allow Game and Parks or mandate Game and Parks start making restitution for the damages these animals cause. Senator Hilkemann brings up the issue that it's not enough property tax relief according to his farmer that he spoke with. Well, what Senator Hilkemann failed to tell you is that property tax is going up like a rocket. And so the little bit of property tax relief we'll give them through the fund is insignificant because their taxes are going up greater than the refund. That's the problem. That's why, sign the petition, get it on the ballot and next year in 2021, we'll make a decision. We talked about solving the budget problem we had in '17, how we filled in the \$1.1 billion hole. Well, how we did that was we actually cut about 157 million in spending, all right, out of 1.1 billion. And then the rest of it we took from the rainy day fund, we lowered our cash reserve, we swept every cash account known to man, those funds--

FOLEY: Senator Erdman, your time has expired but you're next in the queue. You may continue.

ERDMAN: All right. Thank you. So that's how we did it. So it's creative appropriations. That's how you do it. So we've not make any decision on how to cut spending and we move forward with what we've always done, as Senator Vargas said, that's what we've always done. Well, maybe you have heard my story about the little girl that watched her mom get ready to make a ham for Easter. Her mom cuts the end of the ham off and puts it in the oven and the little girl said, mom, why did you cut the end of the ham off? And she said, well, I learned it from grandma, go ask her. So she went to grandma's house and asked grandma and grandma said, well, I've always done that because your great-grandma taught me how to do that, go to the rest home and speak to her. So she did. And she said to great-grandma, OK, I've asked my mom and my grandma this question and they can't answer it. So why do you cut the end of the ham off before you cook it? And the great-grandmother said, the pan wasn't big enough. OK? So that's what we do here. We've always done it this way. No one has ever questioned us. We are the Appropriations Committee. The cake is baked, decorated, the candles are lit, who are you to bring an amendment and talk about something different than we want you to talk about. Well, I'm here to tell you, we spend too much. And I don't care if it's a cash account, I don't care if it's a revolving account, I don't care if it's General Fund, OK? We spend too much. Here's an

Floor Debate
May 21, 2019

opportunity for us to pull back, not going to hurt those people at all, not going to hurt the Game and Parks people at all. They'll continue to do what they've always done. It will stop them from buying more land, as Senator Brewer described to you what they do when they set aside more land. It's not right. The government should not own land as they do. So let's make a decision on how to keep that million dollars in the cash reserve so we can use it later. Thank you.

FOLEY: Senator Erdman, you're recognized to close on your motion to return the bill.

ERDMAN: Thank you, Lieutenant Governor. Already-- I thought maybe Senator Chambers may comment on Game and Parks. He has an opinion, I'm sure. I understand that. You noticed in one of the votes earlier on LB294, that I abstained from voting. And Senator Chambers will understand that because my intention was to throw in a motion to reconsider the vote just taken. But I changed my mind. So here we have another opportunity for you to make a decision about how we spend our money, how to spend it wisely, how to apply common sense, how to be concerned about people in rural Nebraska. Senator Chambers and Senator Wayne are very concerned about the people in their districts, and I appreciate that. And I've told Senator Chambers I appreciate the way he represents his people. I just want to be considered in that same vein that I represent my people with the same regard and the same desire to show them that I am representing them in their wishes and their needs. So that's what this is. And so when Game and Parks comes and tells my farmers, or farmers in Senator Hughes' district, just plant deer-resistant corn, just plant deer-resistant corn-- I got a text message from a lady back home just a few minutes ago, and she was laughing, and she said deer-resistant corn. So that lady has never been a farmer, doesn't live on a farm, lives in town. She understood it. And so what we need to do is make a commonsense decision, return this to Select File, adopt the amendment, strike Section 17, and move forward. Thank you.

FOLEY: Thank you, Senator Erdman. I see a lot of empty chairs. I'm going to ask all the senators to please return to the Chamber and check in. We're on Final Reading. Before we take this vote, we'll have everyone check in, please. It's the Final Reading, check in. All senators please check in. Senator Linehan, check in, please. Senator Hilgers, check in, please. Senator Hilgers, check in, please. All unexcused senators are now present. The question for the body is whether or not to return the bill to Select File. A roll call vote has been requested. Mr. Clerk.

CLERK: (Roll call vote taken.) 17 ayes, 30 nays on the motion to return.

FOLEY: The motion to return is not successful. (Visitors introduced.) LB297E. The first vote, Mr. Clerk, is to dispense with the at-large reading. Those in favor of dispensing of the reading vote aye; those opposed vote nay. Record, please.

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

Floor Debate
May 21, 2019

CLERK: 33 ayes, 9 nays, Mr. President, to dispense with the at-large reading.

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

CLERK: (Read title of LB297.)

FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB297E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Record, please.

CLERK: (Record vote read.) 38 ayes, 9 nays, 1 present and not voting, 1 excused and not voting, Mr. President.

FOLEY: LB297E passes with the emergency clause attached. Our next bill is LB298E. Mr. Clerk, the first vote is to dispense with the at-large reading. Those in favor of dispensing the reading vote aye; those opposed vote nay. Record, please.

CLERK: 35 ayes, 11 nays to dispense with the at-large reading.

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

CLERK: (Read title of LB298.)

FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB298E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Record, please.

CLERK: (Record vote read.) 46 ayes, 2 nays, 1 excused and not voting.

FOLEY: LB298E passes with the emergency clause attached. Our next bill is LB299E. Mr. Clerk.

CLERK: (Read LB299 on Final Reading.)

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

Floor Debate
May 21, 2019

FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB299E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

CLERK: (Record vote read.) 43 ayes, 4 nays, 1 present and not voting, 1 excused and not voting.

FOLEY: LB299E passes with the emergency clause attached. LB464E.

CLERK: (Read LB464E on Final Reading.)

FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB464E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: (Record vote read.) 46 ayes, 1 nay, 1 present and not voting, 1 excused and not voting, Mr. President.

FOLEY: LB464E passes with the emergency clause attached. While the legislation is in session and capable of transacting business, I propose to sign and do hereby sign the following legislative bills: LB293, LB294, LB295, LB296, LB297, LB298, LB299, and LB464. Items for the record, please.

CLERK: Mr. President, the following bills are reported correctly engrossed: LB62, LB123, LB135, LB220, LB244, LB248, LB260, LB281, LB308, LB315, LB374, LB392, LB414, LB427, LB447, LB447A, LB454, LB476, LB505, LB525, LB533, LB559, LB561, LB564, LB571, LB571A, LB609, LB719, LB719A, and LB726. Your Committee on Education chaired by Senator Groene reports LB515 to General File with committee amendments attached. Communication from the Executive Board regarding the designation of LB720 as a major proposal. Amendments to be printed: Senator Wayne to LB657A, Senator Friesen to LB462. Mr. President, study resolutions, LR151 through LR180 introduced by a variety of members. All will be referred to the Executive Board for referral to standing committee. Amendments to be printed: Senator Lindstrom to LB186 and LB186A. Name add: Senator Wayne to withdraw his name from LB605.

Mr. President, Senator Howard 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 until 1:30.

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

Floor Debate
May 21, 2019

RECESS

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

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

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

ASSISTANT CLERK: Mr. President, I do. New resolutions: LR181 by Senator Dorn, LR182 by Senator Kolterman, LR183 by Senator Geist. All three are interim study resolutions; will be referred to the Exec Board.

HILGERS: Thank you, Mr. Clerk. We will proceed to the first item on the afternoon's...oh, more items.

ASSISTANT CLERK: Mr. President, in addition to that, LB293, LB294, LB295, LB296, LB297, LB298, LB299, and LB464 were presented to the Governor at 12:00 p.m. And finally, a-- an amendment to be printed from Senator Wayne to LB86. That's all I have.

HILGERS: Thank you, Mr. Clerk. We will now proceed to the first item on the afternoon's agenda.

ASSISTANT CLERK: Mr. President, Senator Groene would move to place LB147 on General File, pursuant to Rule 3, Section 20(b).

HILGERS: Thank you, Mr. Clerk. Before beginning debate on the motion, I want to let every-- the body know, I spoke with the Speaker, he will be here shortly, but he wanted me to remind the body of two things; that this motion, is set for about an hour and ten minutes. It's a stand-alone motion that's not amendable. And secondly, that near the end of the debate, since it's set for a specific period of time, the Chair will likely find a motion to call the question in order. So I wanted-- the Speaker asked me to provide those at the outset of the debate. Senator Groene, you're now recognized to open on your motion.

GROENE: Thank you, Mr. President. At this stage of the legislative process, this pull motion is appropriate. As Chairman of the Education Committee and primary introducer of committee

Floor Debate
May 21, 2019

priority, LB147, we have done the work. We cooperated with members of the committee and stakeholders to make the bill better, but at the end of the day we came to an impasse along political, ideological lines. This situation, I believe, is why the pull motion is in our rules. You will notice that I also filed white copy AM1750 to replace the original language of LB147. In Exec Session of our committee, AM1750 was accepted by the committee by a 7 to 1 vote of approval. I will speak to that, but before I do I want to tell you more about LB147 and how we ended up here today. LB147 is about protecting our children and school personnel, and it is an affirmative statement telling our teachers that we support their efforts to maintain a learning environment in their classrooms. The intent of LB147 is to protect students and others at school. It is common sense that when a student is physically harming another student, a teacher should be able to protect the child being harmed and the-- and the aggressive student from harming themselves without fear of losing their job or getting into a lawsuit. Unfortunately, our teachers feel they are not legally able to use physical intervention to protect their students. We need to make sure our teachers know they are permitted to protect students, that they won't lose their job or face legal ramifications if they protect students from being injured or worse by the actions of an aggressor. Now some of you may have been told that this bill isn't necessary because it's already in case law. That is not the case. It's true that there is a 1990 *Daily v. Board of Education* Nebraska Supreme Court case that had more to do with defining what corporal punishment is and defining corporate [sic] punishment to be the infliction of bodily pain as a penalty for disapproved-- to disapprove behavior. The court not-- the court did not mention that they believe the present 1995 statute 79-258, that covers school discipline, contained-- they believed it contained vague language when it-- when it stated: Administrative and teacher personnel may make-- take actions regarding student behavior other than those specifically provided in the Student Discipline Act, which are reasonable, necessary to aid the student, further school purposes, or prevent interference with the educational process. That is what LB147 is about, to define that. They, the court, said it should also be interpreted as giving authority to school personnel to use physical contact as reasonable, necessary to aid a student. *Daily v. Board of Education* interpreted this statute permits some physical contact. The court said we determined that 79-258, while obviously not authorizing corporal punishment, does provide authority for school teachers and administrators to use physical contact, short of corporate punishment, to the degree necessary to preserve order and control in the school environment. Nowhere in that statute in the *Daily* case-- or in the *Daily* case does it say a teacher can physically intervene to stop violence in school. Nor-- nowhere in 79-258 would a teacher, parent, or administrator reading that statute would know that the Supreme Court interpreted it to include physical contact. Consequently, most teachers actually do not know that they are legally allowed to use physical contact to protect students. You've all received e-mails from teachers telling you what is happening in-- in the-- on the front lines of the classroom. If time allows today, I will read excerpts in those e-mails. After hearing outcries from parents and teachers about what is going on in our schools, this is the third year that I have introduced a version of LB147. In 2017, Nebraska teachers association, NSEA, conducted a member survey. Over 7,200 members

Floor Debate
May 21, 2019

responded. It was the highest, by double, of any survey conducted by them in the past. Fifty-nine percent of surveyed teachers said they do not believe they are allowed to physically intervene to protect someone from a violent student. Eighty-two percent replied in the affirmative when asked have discipline and behavior problems in your classroom increased over the last five years-- few years. Sixty-one percent agreed that unruly and disruptive students are the biggest problem they face in their classroom. Finally, 81 percent agreed when asked if a statute like LB147 was necessary to authorize teachers to have a disruptive student removed from the classroom. LB147 makes it clear to our educators which when necessary can they not only intervene when necessary but they will be protected from administrative discipline and protected from civil legal action when they do the right thing. Parents expect their school staff should be able to and may protect their student while they are at school. It's common sense. The second part of this bill pertains to allowing teachers to have control of their discipline in the classroom and giving them authority to have a disruptive student removed from the classroom. Most citizens think this is common practice in our schools. The truth is that in many school systems that authority has been taken from teachers. LB147 reaffirms the teacher's authority in their classroom, but it still puts the final authority of the student returning to the classroom in the hands of the administrator. Third, it is clear in the bill that special education students are exempt from removal. Their IEP, independent [SIC] Education Plan will be the teacher's guide on how these students' need-- needs are handled in the classroom. This brings us to AM1750. Senator, Senators Pansing Brooks and Walz came to me with an offer. They would organize a meeting with stakeholders. I agreed not to attend the meeting, instead have-- have my committee staff attend. The first meeting included stakeholders from the NSEA, NCSA, the Nebraska Council of School Administrators, the school boards, and the Nebraska Rural Community Association [SIC]. The first effort was drafted as AM1803 that they could all agree to. I asked for three small changes to AM1803: that the term "physical contact" instead of "physical intervention" be used as it was in the Daily court case; that parents are notified when their children are removed from a class-- used to be called a note home to parents; and that teachers can request a conference when the parents-- when the student is removed with a parent or an administrator. Teachers could request it. The administrators rejected my three small requests. Senators Pansing Brooks and Walz then added another organization-- other organizations to the conversation, such as Arc of Nebraska, Education Rights of Nebraska, the ACLU, and Voices of [SIC] Children. So we went back to the drawing board a second time, again, we help-- of help with Senator Pansing Brooks and Senator Walz. My staff sat down with representatives of those organizations. I stayed out of it for the sake of the bill. The administrators left within ten minutes of the meeting and would refuse to continue taking part. For the next three hours, the remaining group worked out terms to make the bill stronger and help with their concerns. The product of this meeting was AM750-- AM1750 which I filed with the pull motion. To be clear, the NSEA is in support of the amendment. The other groups are neutral with the-- with the amendment, and the administrators are opposed to AM1750. The amendment changes the bill in several significant ways. (Statute) 79-258 is amended to match the Daily case. The protection provision is significantly focused on protection

Floor Debate
May 21, 2019

of persons from immediate physical injury. It makes clear, reasonable physical contact does not include contact intended to cause pain-- corporal punishment, places the student in a prone restraint, or involve any mechanical restraints. Schools must adopt the-- fourth, schools must adopt the policy or-- on using physical contact including a training requirement. The administrators didn't want the training requirement. Parents must be notified when physical contact is used-- common sense. The immunity provision was modeled after existing federal law. The removal part has been nearly complete-- completely rewritten. Schools must adopt the policy on when and how a student is removed/returned to the class-- common sense. Teachers must follow school policy in requesting a removal. Administrators in charge-- are in charge as to when the student is returned to the classroom. The removal can't last longer than the end of the school day unless a suspension, expulsion, or exclusion is involved. Removals have to comply with the federal Individual Disability Act [SIC], including IEPs and 504 Plans. When a student is removed, the goal is to return the student as soon as possible. When we went to Exec on LB147, L-- LB-- I-- the AM1750 again was voted out, was voted to be adopted by a 7 to 1 vote. When it came to time to advance the bill with no further discussion, we had a 4-4 vote. I want to reiterate that AM750-- AM750 [SIC] was based off of AM1803, the administrators' AM. Everyone had-- had had input in AM1750, this language from NSEA, NSAB, NCSA, NRCSA, ACLU, Arc, and Voices for Children. Only a very tiny fragment of the language is still from my original LB147.

HILGERS: One minute.

GROENE: This is how the process is supposed to work and we did it to the T. Our children need this bill. Our grandchildren need this bill. Our teachers need this bill. We need to protect our children while in schools and we need to support a quality learning environment in our schools. So with that, I would ask that you please vote green to bring this bill to General File. Thank you.

HILGERS: Thank you, Senator Groene. Debate is now open on the motion. Senator Linehan, you are recognized.

LINEHAN: Thank you, Mr. President. I'm going to support this pull motion. I wish we had gotten it out of committee. I've never-- maybe I'm just naive. When I got the e-mail with the film of Jenni Benson's granddaughter getting beat up, I was shocked. I know students fight. I mean, they fought even when I was a kid, mostly boys, not girls so much. But what shocked me about that film, or video I guess I should call it, was that there were a bunch of children, not young children, maybe junior high, high school students sitting there watching it like it was no big deal, like it was an everyday occurrence. That's not OK, folks. I'm sure most of us were taught, and I certainly was taught, that when somebody is picking on somebody, beating them up, physically harming them, your job is to step in. You're not to sit and watch. So I'm very confused as to what's going on and I-- I want the administrators and teachers union to work this out. But I want

Floor Debate
May 21, 2019

some pressure on them that it gets worked out now. And that's why I'm going to support this motion. I think, if we get the bill to the floor, it won't be unlike when we did the reading bill two years ago. We brought it to the floor, which got everybody to focus, and in the end we had a bill that passed almost with 100 percent approval. I think maybe two or three senators didn't vote for it. So I think this same process, it will work. It focuses everybody. They will have to sit down to the table and figure out what we're going to do. Because as I-- I, frankly, if I had children in that school, I would have tried to figure out another school to send them to. Who wants to send their child to a school where that's going on? I've got grandkids in public school. I don't want them to have to face this. They're little now, but, as we all know, time flies by. We'll turn around and they'll be in junior high and high school. I want this fixed for my kids, my grandkids, and every other child in Nebraska. And I would-- Senator Groene, would you yield to a question?

GROENE: Yes.

HILGERS: Senator Groene, would you yield?

GROENE: Yes.

LINEHAN: So the teachers union has been very supportive and asked you repeatedly for this legislation. Is that right-- right?

GROENE: Yes. When I originally introduced it, I think they were-- couldn't believe it came from Senator Groene.

LINEHAN: And then the survey, I remember, was the survey last year or two years ago? I forgot.

GROENE: It was three years ago when I originally-- I introduced the original bill, version of this bill.

LINEHAN: OK. I would yield the rest of my time to Senator Groene if he would like it.

HILGERS: Senator Groene, 1:40.

GROENE: Yes. As everybody knows in this state that you don't burn bridges in politics, the teachers union spent a lot of money to defeat me in my last election. I understand politics, but I don't burn bridges. We are locked arm in arm on this bill. Teachers are parents too. Teachers are good citizens. The rank and file work hard, spend a lot of time in the building and they want to

Floor Debate
May 21, 2019

teach. That's what they want to do. They want to take pride in what comes out of their classroom. But the trend has changed. For some reason in our society,--

HILGERS: One minute.

GROENE: --we have allowed violence and anger and those who are enraged to dictate the-- the demeanor of the classroom. I'm not talking about special education children. I'm talking about the average child that has been taught no boundaries. When I grew up, the teacher was the one, if the parents failed, that taught those boundaries to those of us who had a little bit rough side. And by the 3rd grade we were students. We're not individuals. We have taken that ability away from our teachers and we need to bring it back. This is common sense. Thirty years ago, 20 years ago, this bill people would have thought, why are you bringing this; we don't have a problem. Times have changed. We need to focus, we need to assure our teachers they can control their classroom. Thank you.

HILGERS: Thank you, Senator Groene and Senator Linehan. Senator Clements, you are recognized.

CLEMENTS: Thank you, Mr. President. I stand to support the motion. I believe students who want to learn should be given as much opportunity as possible to avoid disruption. This issue, Senator Groene brought it up two years ago, I believe, and the administrators and teachers have had two years to work out a solution, and they haven't. And so I think that's why we're back here again. Would Senator Groene yield to a question?

HILGERS: Senator Groene, will you yield?

GROENE: Yes.

CLEMENTS: I had an administrator write to me that he thought this bill would allow a teacher to exclude a student from a class indefinitely. What control over student attendance in class does a teacher have?

GROENE: He has been misinformed. The bill originally said the teacher could remove a student from the classroom and then the teacher was the one that had to agree to let them back into the classroom. AM1750 completely changes that. It gives the teacher control of the classroom for that moment in time when they need to-- to remove that student so that they can have a learning environment in their classroom. The teacher can-- the administrator must remove the student if the teacher requests. And then after the child is settled down, been given a good lecture about--

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

Floor Debate
May 21, 2019

about not-- he's not the center of the universe and he needs to help let people learn, then the administrator is in charge and-- and can bring the teach-- the student back into the classroom at any time after the period ends, but before-- but must be allowed no later than the following morning. But the administrator decides.

CLEMENTS: Thank you, Senator Groene. I yield the rest of my time to Senator Groene.

GROENE: Thank you.

HILGERS: Senator Groene, 3:05.

GROENE: Thank you. I've heard this and I'm going to disagree that this-- we should-- Department of Education and the administrators and the teachers should come to a policy. No. This is the duty of the Legislature. We have 244 school districts. When a family moves into a district, they should know the rules. They should know the statutes. They should know what is expected of teachers. It shouldn't be willy-nilly from one school district to the next. It should not be in-- in a rule from the Department of Education. This should be a statute. Teachers teach 30 to 40 years. They should not have-- be subjected to changes of policy from one administrator change-- administrators come and go every five years-- from one plan of an administrator to another one in five years. The rule-- the law should be the law. The rule should be the rule. The teacher should have control of the classroom no matter who the administrator is, no matter what rules or policy is set up. And how that conducted, yes, the administration and the school board should set a policy, and the bill says that, guiding the teacher in the policy of how a teach-- a student can be removed and the policy of when the teach-- student is removed and-- but it is the duty of the Legislature. We are responsible for providing free instruction in our common schools. And instruction cannot happen if there's disruption in the classroom. It is our duty. We do not leave that to school administrators or government officials. The basis for this bill is already in statute in the school discipline bill which I mentioned earlier of 79-258. We are taking existing court case along with the legislation and the-- and the will of the people and creating a statute. That's what we are doing.

HILGERS: One minute.

GROENE: There's no harm in that. That's what we do. And don't tell me about it's already in case law. Senator McCollister brought a bill on Internet sales taxes. It was a court case that brought it. If all we need is the court case, we don't need the bill. Senator Lathrop, Senator-- I could name a list of them-- Cavanaugh brought bills to change our statutes from husband and wife to spouse. It's unnecessary. There was a court case that says marriage is between two adults, so why do we need the statute changes? To claim it's in case law and that is enough is be-- is, as

Floor Debate
May 21, 2019

you all know, an argument that doesn't stand in this body. We do it all the time. We-- we change law to address what the courts have said. That's what LB147 does.

HILGERS: Thank you, Senator Groene and Senator Clements. Senator Howard, you are recognized.

HOWARD: Thank you, Mr. President. Good afternoon, colleagues. I rise in opposition to the pull motion, and that's just to the motion itself, not to the merits of the bill. I'm looking at Senator Groene, because I don't know the merits of this bill. I rise with a concern about utilizing a pull motion to subvert the committee process. There's a reason why we have built the committees in this body the way that we have built them. We've built them with thoughtful legislators with particular backgrounds and interests who have experiences that lead them to be on the specific committees that they are on. Not only do I serve on the Committee on Committees, which helped put together the committees with Senator Groene, I also serve as Chair of the Health and Human Services Committee. And I think it's concerning to see another leader in this body try to subvert the work of his own committee. Let me tell you how we do things in HHS. In HHS, we have a week of hearings and then the next Wednesday we have a discussion on every single bill that we heard the week before. We have a discussion. Maybe we don't move it. Maybe we have questions. Maybe we have follow-up. Maybe we think this one's dead in the water. But it gives me the opportunity to go back to the introducer and say, here's what you can do to make sure that this committee feels comfortable with-- with the direction that you're going in, in statute. Here's what you can do to make your bill better or stronger. And what that has produced is, even though I serve in a-- on a committee and I chair a committee, that maybe ideologically and in numbers does not align exactly with my personal beliefs, we have a committee that I think for all but two votes has sent bills out unanimously. We understand what is in the content of the legislation. We can defend our votes here on this floor. And we are thoughtful about what we are sending to this body. And what that means is that I would hope that the body then subsequently trusts what is coming out of our committee. It trusts our expertise. And it knows that when something has the stamp of approval of the Health and Human Services Committee that we have considered it fully. Doesn't mean it's going to move on the floor, doesn't mean it's not going to have problems or questions or challenges here. But what it does mean is that there are seven members who have really dug deep and considered this legislation fully. What I'm hearing is that there were eight members of the Education Committee who couldn't come to an agreement, and because they couldn't come to an agreement or an understanding, we're looking at a pull motion. And mind you, this pull motion may have 25, but it doesn't have 33, and it would probably have 33 if there was some agreement in the committee. So what we're considering now is really working outside of that committee process, outside of the experts in the Education Committee and saying, you know what, you guys don't quite know what you're doing, and so as a body we're going to pull this bill out. I've got plenty of bills that I would love to pull out of committees, but it sets a dangerous precedent to say, all right, committees, you considered

Floor Debate
May 21, 2019

it and I don't agree with you, so I am going to pull it, right? I look at LB209. LB209 had the threat of a pull motion. And what that forced the committee to do was look at the confines of that piece of the legislation and modify it so that it was palatable for the committee to send out to the floor. And now that bill is most likely going to pass. So I don't think that a pull motion is an appropriate move for this body at this time. I won't speak to the merits of the bill because I don't know them. I don't have a committee statement. I don't know what's in a committee amendment here, and I don't know what the committee would want because I haven't heard from them as a whole.

HILGERS: One minute.

HOWARD: Thank you. And with my last minute, I will yield the balance of my time to Senator Williams.

HILGERS: Senator Williams, 54 seconds.

WILLIAMS: Thank you, Mr. President. And-- and thank you, Senator Howard. I also stand in opposition to the pull motion, and I have had the opportunity to talk to Senator Groene about that. And my comments have nothing to do with the underlying bill. They have to do with the process. Senators, we have to trust the process in here. It's the only way it works. We had 739 bills introduced this year. None of us have the ability to analyze all of those bills, including our staff. That's why they're referenced to committees. Those committees do their work and we have to trust that process. Is there a time that a pull motion would be in order? Yes, there would. I think that's the time when you simply have a situation where you have a committee Chairman that refuses to bring something to a vote for the committee,--

HILGERS: Time, Senator.

WILLIAMS: --and the committee wants to do that. Thank you, Mr. President.

HILGERS: Thank you, Senator Williams and Senator Howard. Senator Murman, you are recognized.

MURMAN: Thank you, Mr. President. Today I rise in support of the motion to place LB147 from the Education Committee on General File. I was one of the four senators on the committee-- committee who supported the bill to advance out of committee. I am confident that LB147 and AM1750, otherwise known as the Student Discipline Act, will help our teachers across the state feel safe and in control of their classrooms. This bill enables school staff to

Floor Debate
May 21, 2019

intervene when a student's violent actions are endangering the safety of others, the teacher, themselves, with less likelihood of endangering their license to teach and assisting them in maintaining a classroom environment. Currently, yes, we have case law interpreting a broad statute to mean teachers can protect students. But the statute does not explicitly permit physical intervention. A teacher would not know, by reading the statute. Senator Groene shared with me that 2017 survey of teachers that affirms this. The majority of surveyed teachers did not believe they could physically intervene if necessary. I have had multiple teachers from across the state reach out to my office and mention-- mention that they feel helpless and vulnerable at times in their classrooms because they aren't equipped to help students in situations of violence or disruptive behavior. A teacher in Grand Island Public School System e-mailed me detailing a situation that she dealt with her classroom. She said, in the past few years my school has had several students that have safety plans. With these safety plans, students were allowed to threaten, hit other students, destroy the classroom, and runaway from the classroom. My only solution as a teacher was to evacuate the classroom, let it happen, and call the office and hope someone could come to de-escalate the student or have someone come to remove the student if they would leave voluntarily. Then we were supposed to have a meeting about the behavior with the parents, but it happened almost daily so we never really had meetings and the behavior always continued and intensified. I had no way of controlling the student or protecting my other students. More than once the safety officer had to be called. As a teacher with 20 other students in the classroom, the only safety I felt at school during these couple of years was the time when I went home, and even then it was hard to keep-- hard to sleep knowing what awaits at school the next day. I cannot imagine what my other 3rd grade students felt during the school year or what they learned. As a teacher, I am not equipped to help these students learn and keep the other students safe when being disrupted by violent behavior. Having something like the Student Discipline Act would help put in place more plans to help these students who are coming with trauma and violent behaviors. In the classroom, we need more help to create plans or have school supports that actually do something to help these students so teachers can focus on helping students learn and not just put a band-aid on the traumatic situation. One thing that I want to stress about what she had to say was that she could not imagine what the other 3rd grade students felt during the school year. Our students are--

HILGERS: One minute.

MURMAN: --very attentive, thank you, and know what is going on, and some of them are probably very affected by these situations. It's important that we stress that a majority of the students in these classrooms are attending classes and are ready to learn. It's only a small percentage of students in schools that are being disruptive and causing incidents. One teacher from Omaha Public Schools mentioned that teachers and administrators are being bombarded by instance-- incidents that-- that they do not sign up for and, as a result, fewer people are choosing the profession. The very least our Unicameral can do is give those professionals some protection

Floor Debate
May 21, 2019

as they navigate through the profession. We need this bill so we can protect our students and staff from a very small number of dangerous individuals who have no place to go. Today we have the opportunity to provide for our-- our school professionals' protection when dealing with these problematic and traumatic situations. I urge you--

HILGERS: Time, Senator.

MURMAN: --to support Senator Groene's pull motion. Thank you.

HILGERS: Thank you, Senator Murman. Senator Blood, you are recognized.

BLOOD: Thank you, proxy President Hilgers. I stand today not to speak on the bills and the amendment, because what we are here today to talk about is the actual pull motion. I would echo what Senator Howard and Senator Williams have said that it's not about the merit of this bill. The merit of this bill has been made clear, as people obviously are going to continue to read information on the bill itself and not actually talk about the pull motion. So we'll get to hear a lot about that in the next hour. But I have some grave concerns. Senator Groene is absolutely right that this is a tool that we are able to use. But as Senator Williams pointed out, this is a tool that we are able to use when the process does not work. And I am not hearing that the process is not working in this case. The other concern I have is that we are in a biennium, so the fact that Senator Groene's bill is still in committee does not make it a dead pill unless they-- bill, not pill, unless it was IPPed, which it was not. So I don't understand the urgency when it sounds like from many parties that there is still much that can and could be done. But again, I don't want to digress and talk about the bill itself. I want to talk about the precedent that is set by a pull motion such as this. I think of all the really bad bills that have come across in just the three years that I have been here, I'm sure there's going to be more to come. And once we open this door, it's going to be hard for us to stand and say, hey, there's a process and we need to respect the process. And the reason we have this process is because we respect the bipartisan nature of our one-house system. To push for a pull motion when a committee has had issues, where the person carrying the bill is actually the Chair of that committee, to me, has a lot of red flags. I have a lot of bells going off, and I have grave concerns. I applaud Senator Groene's enthusiasm for this. I have constituents on both sides on this bill. I look forward to the debate, but not in this fashion. With that, I would ask that Senator Groene would yield to a couple of quick questions.

HILGERS: Senator Groene, would you yield?

GROENE: Yes.

Floor Debate
May 21, 2019

BLOOD: Senator Groene, and I mean this very respectfully and so I ask that you understand that I'm not trying to be snarky to you in any fashion. All right? So, yes or no, did your committee vote this bill out, just for the record?

GROENE: It's 4-4.

BLOOD: OK. So the committee did not vote it out. Who is the--

GROENE: That's when a pull motion happens.

BLOOD: Thank you for the explanation, sir. Can you tell me, please, if-- excuse me. Can you tell me, please, who the committee Chair is for this committee that did not vote it out?

GROENE: It's-- it's myself.

BLOOD: It is your committee. And again, I mean this respectfully, sir. Would you say that your committee is dysfunctional in nature if it can't vote a bill out and come to terms?

GROENE: No, it is politically balanced ideologically.

BLOOD: Thanks. So if it's balanced ideologically and nobody came to give it that one more vote, what message do you think that is saying?

GROENE: What message is it, the amendment that replaces the bill was voted 7 to 1 and then no more comment was made and we went to vote it out of committee and the vote changed to 4 to 4. We worked with the committee.

BLOOD: Can I ask you, sir, why you wouldn't just hold on to it and bring it up next year?

GROENE: Because violence is happening in our schools today. It is-- it is in high demand by the public and the teachers and it is a committee priority for this year, not next year.

BLOOD: Sir, are you aware that you can also go through the-- the state school board to make changes like this without legislation if it was very important to you?

Floor Debate
May 21, 2019

GROENE: The state school board, everything they do is guided by legislation by this body. It's not vice versa.

BLOOD: I'm going to talk to you off the mike on that because I-- I think we disagree on part of that. Thank you,--

HILGERS: One minute.

BLOOD: --Senator Groene, for being so respectful to the questions. So again, I stand against the precedent that this is going to set. I have no issue with the bills and their merit at this time. My concern is that if you're willing to open this door, especially for the people that aren't truly listening to this debate, and there's quite a few of them, they're going to be speaking in favor of the bill and not the pull motion itself, if you've got your head down and you got only one thing on your mind, remember what this is going to do to the body. Be concerned about the body and not one bill. Thank you, Mr. Speaker.

HILGERS: Thank you, Senator Blood and Senator Groene. (Visitors introduced.) Senator Pansing Brooks, you are recognized.

PANSING BROOKS: Thank you, Mr. President. I stand today and I will not be voting for the pull motion, but I do want to acknowledge that Senator Groene has tried hard to work on this issue. Senator Groene has a bill that, as it is, in my opinion, is not ready for prime time to come out here. The process of bringing groups together has been important, but I think it's been too late in the process. Some of the people here are talking about the process of just bringing a bill out, but I also want to just briefly speak about what's in the bill that causes concern for me. There are many issues that are brought into play by LB147: school bullying, safety at school for students and school personnel, juvenile justice, mental health and behavioral health, best practices for conflict de-escalation. So legislation like LB147 must be construed in a way not to create negative consequences, because they can't-- these issues can't be looked at in a vacuum. When I saw in the hearing that opposition to LB147 was so fierce, the testimony at the hearing was overwhelmingly against, I devoted hours of my time to help Senator Groene reach compromise. I worked with Senator Walz and we-- we brought in various groups to see whether we could do something that would help this bill go forward. I brought in-- we brought in the stakeholders together in a big meeting two weeks ago to work with Senator Groene, including the NSEA, the school administrators, and then after that advocates for children. I want to thank all of those groups, the NSEA, the teachers, the-- the school administrator, all the advocates, ACLU, Voices for Children, Disability Nebraska. I want to thank them for their earnest efforts to find a good solution here. Senator Linehan just talked about sending a message. I believe that they have heard loud and clear that something needs to be done. These groups made progress and

Floor Debate
May 21, 2019

had good dialogue and found-- found some common ground. I also want to thank Senator Groene's staff, particularly legal counsel, Amara Block, for her excellence in legal knowledge and drafting. She worked very hard to help on this comprise and I want to thank her. Unfortunately, the deal wasn't reached that suited the various parties who all have legitimate concerns. The stakeholders should have been brought together sooner, in my opinion. So I am bringing an interim study so that we can continue this dialogue. I am more than willing to work with Senator Groene over the summer to implement best practices to address school safety. In fact, I believe we must do this. I believe I have demonstrated an ability to bring people together to address these issues where compromise seemed impossible. This year LB155, Senator Brewer, Senator Brewer's bill on wind energy and eminent domain, Senator DeBoer and I worked hard and found a compromise that could work. Senator Linehan and I, last year, worked on 3rd grade reaching and dyslexia, and we both cared about reading, but we had some different ideas on how to go forward on those goals. We slowed it down, brought an interim study, toured the state, and by working together we came up with even stronger legislation than either of us had, in my opinion. We came up with good legislation that was working with the Nebraska Department of Education that would help them provide some rules and regulations and move forward on these reading issues. We dispelled the notion that interim studies cannot lead to good practices. I thought we were going to get there this year on LB147, but we need more time. Important policies cannot be made without deliberation. If we want-- if we want compromise, we have to go back to shared values and there we will find compromise. If the goal is to keep children safe and school personnel safe, there are lots of things that we can do.

HILGERS: One minute.

PANSING BROOKS: If the goal is to reduce conflicts in the classroom and give our teachers the resources they need, again, there are lots of things that we can do. In my experience, compromise only can be reached when people listen to the concerns that others have. I agree that the study sends a message loud and clear that the Department of Education, education groups need to come together and solve these issues and give time for them to come back. The best fit way forward is an interim study. I have it on my desk. It's being signed by numerous people. And all the education groups, teachers, administrators, school boards, advocates have all signed off on this study as written. I've sent it out to everybody. I hope that what we will do is go forward with this study and then we can work to address the teachers' and others' needs in the schools. Thank you for the time that Senator Groene worked on this. Thank you for the time Amara Block worked on this, and all the various others. Thank you, Mr. President.

HILGERS: Thank you, Senator Pansing Brooks. Senator Lowe, you are recognized.

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

Floor Debate
May 21, 2019

LOWE: Thank you, Mr. President. The pull motion, it's been used before, so this is not anything new. This is not new precedence, and it's worked well before. Matter of fact, it got the whole floor to almost vote unanimously on a bill because of the pull motion, because it made it out of committee. So the pull motion does work. I'm in favor of MO93 and LB147 in theory. I do believe that the administrators and the teachers need to work this out themselves. I believe that's where it should have started and it should have been done a long time before now. We don't need classrooms that are in chaos. When I went to school, we respected our teachers. If they said to calm down, we calmed down because there was the board of education in that classroom. I support MO93 to get it here to the floor. So with that, I yield the rest of my time to Senator Groene.

HILGERS: Senator Groene, 3:40.

GROENE: Thank you. I got a note sent in from Senator Pansing Brooks said we-- we need to study this, we need to work on it, from the president. I believe she's Maddie Fennell, president of NSEA. We have worked on this bill for 20 years. Since it never reached the floor, no one has skin in the game and really works in collaboration. Senator Pansing Brooks, could I ask you a question?

HILGERS: Senator Pansing Brooks, would you yield?

GROENE: You mentioned that you worked with Senator Linehan--

PANSING BROOKS: Yes, I will.

GROENE: --on the reading bill, right? You worked with her?

PANSING BROOKS: Yes. Yes.

GROENE: Did you know that bill was pulled from the floor-- from the committee?

PANSING BROOKS: I do know that, yes.

GROENE: Did you know you voted no--

PANSING BROOKS: Yes.

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

Floor Debate
May 21, 2019

GROENE: --to pull it? Did you know you worked with Senator Linehan and then, when it was amended, when I allowed it as Chairman to be amended on to the committee bill the next year, that you voted for it?

PANSING BROOKS: Yes. We worked on--

GROENE: Thank you. Thank you.

PANSING BROOKS: --over the summer--

GROENE: Well,--

PANSING BROOKS: --on an interim study.

GROENE: --that would have not-- excuse me.

PANSING BROOKS: Exactly.

GROENE: My time.

PANSING BROOKS: Exactly what I--

GROENE: Excuse me. This process has been used and been used many times. I have talked to the-- the Clerk, who's been here for-- I don't want to date him, but he's been here many years, and he said the pull motion was used many, many times before term limits. It was used every single year because of this same situation where certain bills were missed-- certain committees were mismatched on ideological lines and the people of Nebraska wanted the action done on and bills were pulled out of committee. It is a proper action. It is not setting precedent. It has been-- has been done over and over again. It is following the rules. And, yes, I respect the committee process. I went through the committee process to get where we're at right now. The amendment, AM1750, was approved 7 to 1. That committee amendment came from Senator Walz's and Senator Pansing Brooks's efforts. I accepted it verbatim because the teachers union said it was fine. Wasn't exactly what they wanted. It was fine. A majority of that amendment was language brought by the administrators. You want collaboration? Then, administrators, give a little. It's not your schools, your employees. In a small community, the teachers are more of the community than you are. You come and go. Give us back our schools. Let our teachers do what we expect them to do and get out of the way. We've allowed you in charge of the schools for too long. You

Floor Debate
May 21, 2019

sweep things under the rug. You want to give the perception to the community all is fine. Most of you have seen that video. That was just down the road in the small town of Crete, Nebraska.

HILGERS: One minute.

GROENE: One of the main lobbyists for the administrators was a superintendent there for years. Those kids were trained to be indifferent to violence by him, by his policies. We can't have that, folks. We need our youth to stand up when evil is going on, when violence is going on. They cannot accept it as normal behavior by some. We need our teachers to be solid and to set the tone in the classroom. We rely on them to teach virtue, to teach manners, to teach discipline. I trust them to do so. The people of Nebraska trust them to do so. Untie their hands and this bill gives them back control of their classroom. That's all we are doing. That's all we are doing. This is not regressive. This is not mean. This is not out of the 1960s.

HILGERS: Time, Senator.

GROENE: Thank [INAUDIBLE].

HILGERS: Thank you, Senator Groene and Senator Lowe. Senator Morfeld, you are recognized.

MORFELD: Thank you, Mr. President. Colleagues, I rise in opposition to the motion to place on General File for a few different reasons. First, there is a committee process for a purpose. There's a reason why we sit in committees for hours upon hours. And I'll tell you that as somebody who serves on two of the heaviest load committees, Education and Judiciary, there is a reason why we sit on those committees and there is a reason why we have a committee process. When we start making exceptions to that process is when we start to dilute the purpose of sitting on the committees, because then why do we have committees at all? We should just have every bill go to a floor vote and decide the merit there. Colleagues, there's a reason why this bill is still in committee. And this comes from a member of this body who voted this bill out of committee three years ago. And why have I not voted it out of the committee now? It's because I learned. I learned more and I learned that this has a long ways to go until we find an acceptable and prudent policy. Colleagues, there is a reason why this bill is still in committee. It's because the committee process works. And believe me, I have plenty of bills that are in committee currently that cannot get out of committee that I think have a lot of merit, that I think address a critical problem that impacts my constituents and your constituents. I would like to see those bills out of committee, too, but I understand the importance of the committee process. And even though I don't always agree with the committee, and I don't agree with some of the committees now that my bills are currently stuck in, I respect it. Colleagues, I think that there needs to be some misinformation that has been brought about the current state of the law: 79-258, "Administrative

Floor Debate
May 21, 2019

and teaching personnel; authorized actions." Administrative and teaching personnel may take actions regarding student behavior, other than those specifically provided in the Student Discipline Act, which are reasonably necessary to aid the student, further school purposes, or prevent interference with educational process. Right below it, *Daily v. Board of Education*: This section provides authority for school teachers, school teachers and administrators to use physical contact short of corporal punishment to the degree necessary to preserve order and control the school environment, and authorizes an acceptable level of incidental physical contact as necessary for teachers, teachers, to promote personal interaction with their students. This provides the reasonable force necessary to preserve order within their classroom, to protect themselves, to protect property, and to protect other students. Teachers in the video that you saw that was distributed and in other instances have the ability to use reasonable force. One of the reasons why I did not vote this bill out of committee with the certain amendment was because it was conflating immunity with reasonable force, potentially confusing the teachers across the state into thinking they have immunity from criminal and civil charges, even though it's only if it's reasonable, which is the current status quo. There's a reason why that bill was not voted out of committee. There's a reason why that amendment was not voted out of committee. It's because me, as a committee member and a subject matter expert of serving on that committee for five years, read that language and knew that teachers would be confused and otherwise-- because it was confusing to me -- and otherwise duped into thinking they had immunity when they did not. Colleagues, this is incredibly frustrating. It's frustrating because there are reasons why bills don't get out of committee. There are reasons why bills don't get out of committee and there are reasons why we entrust our colleagues to become subject matter experts--

HILGERS: One minute.

MORFELD: --and to make these decisions in the best interests of the body, even though we don't always agree with them, including me. I will also note, and we'll talk about it in a little bit, because I'm considering whether I over-- move to overrule the Chair, but there are over 20 people in the queue right now, and I just heard from the Chair that they intend to move forward with a cloture motion, as far as I can tell, and rule that there's been full and fair debate before we've even seen full and fair debate. Colleagues, what is this body? It is a legislative body. It is meant for deliberative debate, not for expediency so people can go on vacation earlier, not for expediency so the Governor and other people can see their political ends met. It's a body to deliberate issues. To deliberate issues in a deliberate manner and to have debate, not simply just to get to votes, not simply just to go on vacation earlier, and not simply to meet other people's--

HILGERS: Time, Senator.

MORFELD: --personal ends. Thank you, Mr. President.

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

Floor Debate
May 21, 2019

HILGERS: Thank you, Senator Morfeld. Senator Cavanaugh, you are recognized.

CAVANAUGH: Thank you, Mr. President. I rise in opposition to Senator Groene's motion. I am constantly trying to learn the rules of this body and spending a lot of time with our little red book here and reading this over. And I wonder if Senator Groene would yield to a question?

HILGERS: Senator Groene, would you yield?

GROENE: Yes.

CAVANAUGH: Senator Groene, you spoke about the amendment that you worked on, AM1750.

GROENE: Yes.

CAVANAUGH: It's my understanding that if this pull motion were to be successful that it would come out as the green copy, not the amendment.

GROENE: Yes, and I made a commitment to everybody, and I've never lied to anybody on this floor, I'm about as truthful as anybody can be who's ever been elected to this body, that AM1750 will be the amendment and will be the bill that I support on the floor.

CAVANAUGH: Thank you, Senator Groene. I just wanted to clarify that. I stand in opposition to the-- the pull motion because I-- I don't believe that this is the intention for the process that we are enacting. And I understand that there were pull motions in the past couple of years, but I would caution us all to reflect upon what has happened in this body in the past couple of years, which is term limits, and that we are a much younger, youthful body than in years past. And so we seem to be going down a path of not honoring and respecting the process that we've laid forward in this Legislature. And with that, I will yield my time to Senator Walz.

SCHEER: Senator Walz, 3:30.

WALZ: Thank you, Mr. President. Three years ago when I came to Lincoln, I was so excited to be on the Education Committee. Coming from a background of being a 4th and 5th grade teacher, a background with special education and serving people with developmental disabilities and mental illnesses, I really felt I would have the ability to contribute to conversation about our public education system. Instead, I find that's not the case. This is one of the first major education bills we are able to talk about this year. To put it in perspective, this is a committee

Floor Debate
May 21, 2019

priority bill, typically a bill that is supported by the entire committee, one that we now have to talk about making a pull motion on. I find it very disheartening, out of all the issues facing the education system in Nebraska, that this is the one we have prioritized. While at the same time we have so many other good bills to discuss sitting in committee, bills that were never executed on, never discussed, never even mentioned. And even though we have had-- we have not been able to find funding for each of those bills, I feel like every one of those bills deserve a conversation and a discussion, because that is what a committee should do-- talk about education. But instead of doing that, we've had to talk about this bill over and over and over and over again. And if it was a good bill, it would have passed out of committee. In fact, we had 56 bills in Education Committee this year and I think we talked about 18. This year has been a struggle for the committee. We have spent more time discussing the use of restraint than we have any other bill, and we have a lot of other good bills to discuss. I have personally introduced five bills into the committee and we've only executed on one of them. I have done my best under the fiscal restraints this year to bring bills with little or no cost, but I feel that none of them received fair consideration. I would not vote this bill out, and I'm starting to feel that, at this point, there-- there would be no point in even bringing a bill to the Education Committee this-- next year. What pains me the most about this bill is that, colleagues, it does nothing to address--

SCHEER: One minute.

WALZ: --the root of the problem. I want to know how the school is going to assist the student that had been restrained after the physical-- physical force was applied. If the child was assaulting another student, is there anything that's going to be done to counsel them and see how or why they were acting that way in the first place? Where's the training for teachers? Where's the resources? Where's the services that we need for mental and behavioral health? We don't need a law. As Senator Murman talked about, we need to educate and train our teachers. And I have talked, I have talked to many, many teachers out in the lobby as well, the day that they came down to-- to talk about LB147 and they had no idea, none, that this bill did not include any training, support, or mental/behavioral health for kids. And it changed their mind. We need to respect the committee process.

SCHEER: Time, Senator.

WALZ: Thank you.

SCHEER: Thank you, Senator Walz. It is 2:30, colleagues. I-- I apologize, I did have an appointment outside the house and I guess I vastly underestimated the amount of discussion that would be wanted to have. We will move back to the agenda. We do have a list of those waiting in the queue. We will come back to that later this afternoon or perhaps this evening. But we will go

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

Floor Debate
May 21, 2019

to the agenda, the next agenda item on the agenda, which would be-- what, three, no, yes, three, LB397.

ASSISTANT CLERK: Mr. President, LB397 introduced by Senator Briese. (Read title.) The bill was introduced on January 17th of this year. It was referred to the General Affairs Committee. That committee placed the bill on General File. It was considered previously by the body, and at that time Senator Chambers had filed a motion to bracket the bill until June 6. That motion is now pending.

FOLEY: Senator Briese, if you would like a moment to just refresh us on LB397, please proceed.

BRIESE: Thank you, Mr. President, and just to refresh the body, LB397 was a bill brought to me by the Attorney General's Office. It's a necessary bill regarding cigarette and tobacco laws to ensure compliance and protect our funding under the Master Settlement Agreement. It accomplishes this through four main things. It adds a section to allow for nonparticipating manufacturer escrow assignments. This provides these nonparticipating manufacturers the option to assign required escrow accounts to the state which minimizes the required oversight necessary by the Attorney General's Office while maintaining the protections of the escrow system. Several other states have implemented similar escrow assignment laws. It also updates the statutory definition of cigarettes for tax and stamping purposes. This is done to match the tax definition of cigarettes to the cigarette definition under the MSA, Master Settlement Agreement. This provision provides consistency and closes tax and escrow loopholes for new market products. Third, it creates a new definition of electronic nicotine delivery system, or ENDS. ENDS provides a new definition and requires retail licensing to address existing potential legal loopholes and anticipate new and soon to arrive products in the consumer nicotine market. This helps prevent a resurgence of unregulated nonparticipating manufacturer fringe products in Nebraska and safeguards against future MSA problems. Several other states have adopted similar definitions. And note, this is for licensing and regulatory purposes only, it does not create a new taxable market. Finally, it updates Nebraska's bonding provision found in Section 16 which deals with bonding requirements for the Non-Participating Manufacturer Adjustment Settlement Agreement which Nebraska joined in 2017. Under this agreement, states with a certain excess percentage of noncompliant, nonparticipating manufacturing cigarettes are subject to a penalty payment adjustment called the set paid adjustment. This agreement allows for exclusion of cigarettes from the count of a noncompliant NPM cigarettes that would have otherwise applied, but only if the state has the relevant and required, updated bonding statute. In Section 16 here, it adopts this necessary bond provision in order to avoid losing money each year under that set paid adjustment. This bill contains important provisions to protect Nebraskans and provide the Attorney General's Office with necessary enforcement tools. I do have an amendment filed to this bill, AM1828. Thank you, Mr. President.

Floor Debate
May 21, 2019

FOLEY: Thank you, Senator Briese. When we left the bill, I understand Senator Chambers had a bracket motion pending at that time. Senator Chambers, if you would you like to take a few minutes to refresh us on where we are.

CHAMBERS: Thank you. Mr. President, members of the Legislature, and Senator Briese, especially, circumstances alter cases. Because of what it seems is going to happen this session, I'm going to discuss my amendment-- my motion for a while and at some point I will pull it. But I don't like at all what I'm seeing. To suggest that a motion such as the one Senator Groene presented would get an hour or an hour and ten minutes, then the question could be called and that's the end of it, which would mean not everybody who wanted to speak had spoken once. That's game playing and Senator Groene knows it. And I want to show you all that he either doesn't know the rules or he is not an honest man. When the question was put by Senator Cavanaugh-- see I listen even when I'm upset --whether or not if the motion was successful, the bill would come out or would it have the amendment, Senator Groene said he assured people that the bill would come out as it is without the amendment. That's what the rule says. When you pull a bill, the bill comes out-- he didn't know the rule. It's not honesty on his part. He couldn't bring it out with the amendment on it pursuant to the rules. When you move to raise a bill, you raise that bill and not anything the committee had done. So we've got game playing. For him to talk about teachers cannot maintain order in the classroom, and Senator Morfeld read not only the statute but a court interpretation, and Senator Groene didn't point out that one of the reasons that I didn't support his bill and I didn't realize it happened in his city, in North Platte, a teacher dragged an eight-year-old child by the feet out of the principal's office back to the gym which covered 90 feet. The administrators wanted to fire him, but they were overruled. He had gone so far outside the pale. Senator Groene knew that. He thinks that's all right. I'll tell you what, teachers didn't put the hands on my children in school. One teacher ran into some bad stuff because he had done something where my little sister was concerned. He was a substitute teacher. There happened to have been a lot of snow outside and I went up there and found out what he had done and I took him outside and I threw him in a snowbank. I didn't punch him. I didn't body slam him. I didn't use judo on him. But I told him there's less disparity in size between him and my sister-- between him and me than between him and my sister, so do to me what you did to her, and the coward didn't make a move toward me. That's the stuff that happens. Senator Groene, you see how rude he is. How bullying he is. He asked Senator Pansing Brooks a question. Now everybody wants to look away and act like they don't know what I'm talking about. You all heard it. Then he started cutting her off, and then she was going to answer and he cut her off and cut her off. That's what you got here. And you're talking about children misbehaving in school? If the children were up there, was that an example? That's what I'm talking about. Grown people bullying people on this floor. And he picks the people he's going to bully. Then he misrepresents what the rule allows. And you all know that you had one person who told everybody. See, when that went up on the board that this motion was coming up, I put on my light. Then when Senator Groene starts talking, I see that my light is off. I won't go

Floor Debate
May 21, 2019

behind all that, but I want to tell you this. There was somebody who sits up in the front row and said, all right, now when this happens, you all got to turn your lights on right away. Did that happen? You all up there in the front row, did that happen? Did you hear it? See? They don't want to own up to it. That's the way they do. If there was to be one hour of discussion, then a vote would be taken, all of the people on his side turn on the lights so nobody can speak, then there's the vote taken. That's how corrupting it can be in this Legislature. And I cannot make a silk purse out of a sow's ear, but I try in this Legislature. So what I'm going to do is take my time. That's the only way I can show my displeasure, because I'm not going to use profanity, I'm not a Christian. I'm not going to grab anybody because I'm not a bully. I'm just going to use what under the rules we're allowed to use. What is expected to be used in any legislative assembly, whether it's called the (inaudible)--

FOLEY: Senator Chambers.

CHAMBERS: --the parliament. You said time?

FOLEY: Yes.

CHAMBERS: Thank you, Mr. President.

FOLEY: Yes. This is just a brief-- this was just a brief summary of the motion, Senator. Debate is now open on LB397 and the pending motion. Senator Chambers, you're first in the queue.

CHAMBERS: Thank you, Mr. President. So I am going to alert you all to what I am going to do. I went to my office and I found some complaints I've filed, once against a judge. That was the basis for it. And one against a former lawyer for OPS. It was lengthy and it was filed against her to the council for discipline because what she did that I complained about was done in her role as a lawyer. There were many problems in OPS. There were white teachers who were using sexual misconduct toward black female students and I brought it up. I talked about it on the television program I had, wrote about it in my column that I had in a black weekly newspaper. And the school board did nothing. And the superintendent backed him up in not doing anything. The police conducted an investigation and they had a female officer question the young women, and they got enough evidence there to file felony charges against this person. And OPS, the board at that time, and the superintendent, John Mackiel, still didn't want to do anything about it. So I know what teachers will do. In the last few days, some teachers have pleaded guilty, others have been found guilty of sexual misconduct towards students. Not only in Omaha, but across the river in Council Bluffs and around the country, so don't tell me about these teachers. What we need is order in the classroom, but not just where the students are concerned. They see grown people do things. For example, I say again, if there were students up in that balcony and heard

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

Floor Debate
May 21, 2019

Senator Groene talking about how children misbehave, they would have said, teacher, did you see how he interrupted that lady? He asked her a question and she tried to answer it and he wouldn't let her talk. And when she tried to answer it, he just kept butting in and telling her don't talk. Isn't he-- don't we lead our children by example? Is he-- should he be an example of anything? Then you so-called conservatives going to say, everybody now turn your lights on right away and I think the one who said it is now in the room and knows that. You got to turn your lights on right away. That's the game being played. You might win that instant, but we have time left in this session. And for those people who think that the work we have remaining is important enough that we should spend the full 90 days here, that can be done. The constitution puts a limit on how many days we can be. You can't go beyond this, but any days less than that or fewer, you're allowed to do. When a motion to adjourn sine die is made, we just don't vote in favor of it. That's all you have to do. You don't have to argue with the Speaker. It's a legislative decision. Don't vote in favor of that motion. That's under the rules. Don't you all read the rules? You going to let one man tell you four days going to be lopped off this session and everything that should be or could be dealt with will not be dealt with so-- you know why I'm talking like this? Because a lot of people run around here grumbling to me: That's not right; we have things to do. I've even gotten phone calls. And I said if they know the rules, they don't have to accept that. Just don't vote for the motion to adjourn sine die and we stay here. And we don't have to vote to extend the session because you do that only when the 90-day--

FOLEY: One minute.

CHAMBERS: --or the 60-day limit has been reached. You all don't read the rules. You don't care about the rules and you got a man back here leading you all around by the nose talking about rules that ought to pertain in the classroom, and he doesn't show a respect for the rules in this Legislature. Doesn't respect his committee. Well, yeah, he can do that. He can do anything he wants to do. That's allowed here. But while he is in the process of doing it, don't say he is doing it because children don't know how to behave. He should be an example. Whenever the Chair tells me that my time is up, then it's up. But there was one day when the Chair turned off my mike, had the young people turn my mike off, and it should not have been turned off because I had a legitimate basis to speak. And so I shouted it out loud enough to be heard. If the rules are not going to be followed in dealing with me, then that tells me all bets are off and--

FOLEY: That's time.

CHAMBERS: --we're going to play by the rule you put in place. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Chambers, you are recognized again.

Floor Debate
May 21, 2019

CHAMBERS: Thank you, Mr. President. Members of the Legislature, I don't have any feeling about Senator Briese's bill. I told him that I would withdraw this motion, which I will do, but at first this morning when I talked to him, my intention was to withdraw it as soon as it was mentioned that I have the motion pending. But I cannot let this mess go by without commenting on it. And it's going to get uglier as the session goes on. Deals are going to be made and broken. People are going to be angry because they didn't get their way, and they thought that somebody was going to go with them and another force intervened and that person chose not to deliver on the promise that had been made. You all think I'm as dumb as you all are, that I can be here as many years as I have and learn as little as you all have learned. When I came here, I was familiar with the rules because I knew I was in a hostile environment. I knew I was not respected, and that has not changed. But I can make you all pay. Not by asking somebody a question and then cutting them off. That's not the way I operate. But you can't rise above your upbringing and breeding, can you? I wrote a rhyme and handed it out. And I'm going to read it before the session is over. I don't intend to read it today, but it had to do with these vicious bills that are being enacted to force a woman who has been raped to let her womb serve as the incubator for the DNA of a rapist so that that rapist seed can turn into a human being and go abroad in the world and her body, because white males usurp her authority over her body, she has to let that happen. That's what these laws are designed to do and these women around here think these men respect them. They have you running up and down the aisle, running here, thither and yonder, and thinking that you doing something and you got power and you being laughed at and mocked. Don't have sense enough to see what's happening. But she's one of yours. She's not mine. That's the way you want to treat your own, do it. But don't pretend that you are men. Don't pretend that you believe in fairness and justice. You get up here with these statements that somebody wrote and you read it and it doesn't comport with the facts and you sound like a fool when you read it and you stumble when you read it which indicates you didn't write it yourself. You didn't even have a chance to review it and learn how to read your script. And we're supposed to be an example? No. We tell people they must be an example. Don't do as I do, do as I say do. Don't practice what you see me do, practice what I preach. That's you all. You all want to do away with a woman's right to choose an abortion. And say one yields to that pressure, she's poor. She might have even been homeless and now a child is here. And she tries to get public assistance--

FOLEY: One minute.

CHAMBERS: --and people like some of those we've got here say, well, you shouldn't had the little bastard if you couldn't take care of him or her. You ought to get some morals. And you passed the law that made her have to carry that thing to term. Something that you all worship refer to what a woman was carrying in the Bible and said that holy thing within her. That holy thing. You all are calling the seed of a rapist a holy thing? A father who impregnated his daughter, that thing in her is holy? A victim of sex trafficking, and those things in her are holy? And you're always doing it to a woman. Always. You white men don't know the meaning of

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

Floor Debate
May 21, 2019

chivalry. Look it up in the dictionary. You don't even know the meaning of common courtesy or decency. You ought to learn something, but your actions give you away.

FOLEY: That's time, Senator.

CHAMBERS: Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Groene.

GROENE: Thank you. I must have accidentally put my light on but I'll use that time. I support Senator Briese's LB397 and I do not support the MO75. This is more addressing the public out there. When a senator pushes a button and waits for a long time for his five minutes to speak, or she does, we as collegially as we can be, we ask questions and then the person who has been asked the questions usually, if they're collegial, just answers it shortly with a yes, no, or short answer understanding that the time belongs to the senator who asked the question. So I was short with nobody. That is well-understood in this body that the time belongs to the person and the question should be answered shortly and precise and then returned back to the senator. As to Senator Walz's comment the other day about the Education Committee and only execing on 18 bills. I have the same rule every committee Chair does. You come to me if you want your bill execed on, show me five votes, and then we will exec on it. If even if you want it execed on and you don't have five votes, we will exec on it the next Exec Session. We've always done that. We also, like every committee does, offer a committee-- let senators, their bill to be amended on to a committee priority bill so it gets passed so you don't have to use your priority or it dies on the floor. I offered that to Senator Walz on a couple of her bills. She rejected that. So that is how the system works. And the pull motion is used, it's not in abnormal activity, and I don't want the kind of authority Senator Chambers claims I have that I pull people around by the nose. I use the truth to the best of my knowledge. People agree or they don't agree. It bothers Senator Chambers that I do speak the truth and some people nod their heads in agreement. That is his problem, not mine, but I lead no one. I have no groupie that follow me, and I follow no one. That is what's unique with this body. And that's the way I handle myself. And I associate with anybody on any side of the aisle, political affiliation or whatever. I do not drop bracket motions on everybody's bills. I don't have the ego to think I have to have more time. I deserve 2.5 percent of the time or a little over as 49-- as the other senators do, a little over 2 percent. Some of us think we need 10 or 15 percent of that time. That is not collegial. I don't believe in that. I do not believe my ego is so big that people want to listen to me or the state of Nebraska does. So, therefore, I don't do that. I stand when things need to be said and that is the only time I stand. And I will defend that and not back down to anybody because the truth is the truth and it needs to be heard. Thank you.

Floor Debate
May 21, 2019

FOLEY: Thank you, Senator Groene. Senator Chambers, you're recognized to close on your bracket motion.

CHAMBERS: Thank you, Mr. President. Members of the Legislature, for Senator Groene's information, I will speak whenever I want to. I got more than 2 percent to say in my brain. I learned more in school than he learned. And I have more to say about what I see going on around here. And I play by the rules around here and he doesn't. He knows that when you talk about a rule, there is what's written in the book. Then there are practices and traditions which inform that rule. He doesn't know that, as long as he's been here. That's why sometimes you have to be very elemental so that people like him don't misunderstand. But I'm not speaking to try to make him understand. I'm trying to show people around here who do go along with him. I've watched and listened to sensible people stand on this floor and say, do what he wants you to do, which is to undermine his own committee. I've heard people on this floor who know better than that, but they're not looking at the dignity and integrity of the Legislature as an institution, but what their feelings are hurt about at the moment. Senator Groene has heard me say, I'm like old man Kennedy advised his son, don't get mad, get even. And you know how I get even? I use time. And I've made it clear. You couldn't take as much time speaking as I do and have as much to say as I do without repeating over and over and over. I wouldn't expect you to. But I don't pattern myself after what other people do, and I don't put other people's limitations on me. But I do watch when people are bullying and when they are rude. And this idea of when somebody-- a senator asks a question, the time belongs to the senator. Well, if you ask a question, and it's a question that can't be answered yes or no, don't ask it if you want to try to compel somebody to give a yes or no answer. You're not Perry Mason. You might think you are. And I'm aware of things that he has done to try to make arrangements and deals. He has even talked about it. I tell you what I'm going to do. And I'm not apologetic about it. And if you challenge me, I will show you what I will do. And I'm not going to tuck tail and run from anybody and I don't need a lot of help. I'm not a vote counter either. I don't like what Senator Halloran is doing with my black-tailed prairie dog bill, but I have now offered a motion to bring it out of his committee. I don't like the fact that Senator Brewer won't advance a bill that I want. Maybe he can't get the votes. I haven't offered a bill to pull it out of his committee. I haven't offered a motion to pull bills out of any committees this year, and not one of my bills has made it out of committee. That's the way it goes here. I understand that I'm in a hostile environment. But I keep in the back of my mind that little megaphone that magnifies Joseph Kennedy's voice from the grave. [WHISPERING] Don't get mad, get even. Don't get mad, get even. I said, don't get mad, get even. And I know what that means because I watch white people do it. I don't have anything against Senator Briese's bill, but we're going to talk about it a while today. However, a promise being made must be kept. So when I am given that one-minute warning, before that minute elapses--

FOLEY: One minute.

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

Floor Debate
May 21, 2019

CHAMBERS: --I would pull this motion. But let me explain something else to you all about the rules. If a motion is made and it's withdrawn without a vote being taken, it can be offered again. It wasn't resolved. So I can keep my promise to Senator Briese and do what I want to do. I can pull it and let Senator Briese say a thing or two, then offer it again. You think I'm as dumb as some of you all are. Senator Groene mistakes being angry with being intelligent, being loud with being logical. And you see how he knows how to tone his voice down when he's talking to me or with reference to me, don't you? Not like he's yapped at Senator-- I'm not going to call her by her name but by the title I've hung on her, my granddaughter. Not my granddaughter. You weren't paying attention. My goddaughter.

FOLEY: That's time.

CHAMBERS: I will withdraw that motion, Mr. President.

FOLEY: Motion is withdrawn. Mr. Clerk.

ASSISTANT CLERK: Mr. President, the next amendment for consideration from Senator Briese, AM1828.

FOLEY: Senator Briese, you're recognized to open on AM1828.

BRIESE: Thank you, Mr. President. I want to thank Senator Chambers for doing as he said and pulling that motion. I appreciate that. I rise to introduce AM1828, which I briefly mentioned earlier. AM1828 is the result of discussions with several interested parties, including public health advocacy groups, the Attorney General's Office, the Winnebago tribe, and various senators. And I want to thank everyone involved in this amendment for their willingness to work through these changes and find compromise here. AM1828 amends two provisions of LB397, the Electronic Nicotine Delivery System, or ENDS', definition found in Section 2; and secondly, the nonparticipating manufacturing bonding provision found in Section 16. The ENDS' definition is amended by removing the requirement that a device be sold in combination with nicotine, tobacco, or tobacco derivatives to activate the ENDS' licensing requirement. All other aspects of the definition remain the same. The amended definition provides statutory flexibility while maintaining consistency with requirements of the Master Settlement Agreement and in line with definitions for similar products and substances in other states. The amendment addresses concerns over products and substances that may be utilized in these devices which may have health risks by making certain the devices themselves are covered by the law regardless of whether or not the device is sold with nicotine or tobacco. The second provision of the amendment addresses-- is the Section 16 bonding statute. This change was requested by the Winnebago tribe to ensure that the bonding provision language is clear that a nonparticipating

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

Floor Debate
May 21, 2019

manufacturer is not considered an elevated risk under the bonding statute for bringing a good faith claim or lawsuit against the state. I believe this is good compromise amendment that includes language recommendations and addresses concerns by all interested parties while remaining true to the intent of the bill, to provide the A.G.'s Office necessary tobacco enforcement tools and protect our MSA funding. And I do note that from the-- or by changing the definition of cigarettes to include little cigars in the green copy will result in a decrease in tobacco products tax collections and an increase in cigarette tax collections. From the fiscal note, it appears essentially to be a slight tax decrease. And again, I note these changes in the amendment were arrived at with the help of the Attorney General's Office and it's my understanding, policy research agrees to these changes, and the health organization we dealt with supported this change. I'd ask for your support and your green vote on the amendment and the underlying bill. Thank you, Mr. President.

FOLEY: Thank you, Senator Briese. Is there any discussion on AM1828? I see none. Senator Briese, you're recognized to close on your amendment. He waives closing. The question for the body is the adoption of AM1828. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 37 ayes, 1 nay on the adoption of the amendment.

FOLEY: AM1828 is adopted. Mr. Clerk.

ASSISTANT CLERK: Senator Cavanaugh would move to amend with AM1569.

CAVANAUGH: Senator Cavanaugh, you're recognized to open on AM1569.

CAVANAUGH: Thank you, Mr. Lieutenant Governor. I will start by saying that my intention is to pull this amendment, but we did have this discussion about whether or not my original amendment, AM1528, was germane on May 1. And before I pull this amendment, I wanted to return to that discussion. I was disappointed by the vote that was taken to rule that my amendment is not germane. It is my belief, my firm belief that this amendment is germane, and if those in the body did not agree with my amendment, that they had the opportunity to vote against the amendment on its substance, not its germaneness. And I think we heard from several in the body that this was a dangerous move and a dangerous precedent to set as to whether or not a bill that opens up the same statute and the same section of statute is germane or not. There are so many other amendments that we see here that do not meet that threshold as well, and it's disappointing when we can't debate a bill on its merits, or an amendment on its merit, and we find ways to get rid of it without having that discussion about the merits of the amendment. So I brought this amendment again. I made some changes to it actually to make it more germane than

Floor Debate
May 21, 2019

the previous amendment was. I took out all things within the amendment that did not open up the same statute, but I do not intend to move forward with it today. That said, I would like to speak to why I have brought this to begin with. I initially brought my bill, LB710, because we are currently facing a public health crisis. Every year Nebraska spends-- Nebraskans spend \$737 per household. So 49 households in here, we each spend \$737 a year. That's almost a month's salary for each of us on smoking-related medical expenses and loss of productivity. This body talks a lot about property tax relief. If we're truly, truly serious about property tax relief through cutting spending, tobacco tax and my tobacco tax amendment would drastically cut state spending, while also increasing revenue and improving healthcare outcomes for tens of thousands of Nebraskans. Increasing the tax by anything less than a dollar as proposed in LB289 does not result in the decrease in smoking and, therefore, the healthcare outcomes necessary to see a cut in state spending. A dollar increase to \$1.64 would keep Nebraska competitive with our bordering states and would not result in border bleed. While it would be my hope that we would raise the tax by \$1.50 to \$2.14, so that we can do more to address this healthcare crisis, it's important to keep in mind that at least a dollar is essential-- a dollar increase is essential to public health. Any tobacco tax increase less than \$1 is simply a tax on the economically disadvantaged to subsidize property tax relief and I do not support tax cuts on the backs of the working poor. So with that, I will close my remarks. I will wait to withdraw in case anyone else would like to speak on this amendment. Thank you.

FOLEY: Thank you, Senator Cavanaugh. Is there any discussion on AM1569? I see none, Senator Cavanaugh.

CAVANAUGH: I withdraw my amendment. Thank you.

FOLEY: AM1569 is withdrawn. Is there any further discussion on LB397? Senator Briese, you're recognized to close on the advance of the bill.

BRIESE: Thank you, Mr. President. And I want to thank Senator Cavanaugh for her courtesy in pulling her amendment and I appreciate her passion for the issue that she described there. And, Senator Cavanaugh, your point on germaneness is well-taken. I will keep that in mind next time I consider a germaneness challenge. And back to LB397, this legislation is necessary to preserve and protect our MSA dollars. It's important legislation. I'd ask for your support. Thank you, Mr. President.

FOLEY: Thank you, Senator Briese. Members, you heard the debate on LB397. 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.

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

Floor Debate
May 21, 2019

ASSISTANT CLERK: 39 ayes, 0 nays on the motion to advance the bill, Mr. President.

FOLEY: LB397 advances. Items for the record, please.

ASSISTANT CLERK: Thank you, Mr. President. Amendment to be printed by Senator Wayne to LB657. Reports on various gubernatorial appointments from the General Affairs Committee. Series of interim study resolutions: LB184 by Senator Quick; LB185, Senator Crawford; LB186, Senator McDonnell; LB187, Senator Lowe; LB188 by Senator Hansen; LB189 by Senator Hansen; LB190 by Senator Quick; LB191 by Senator Arch; LB192, Senator Bolz; LB193 by Senator Bolz. In addition to that, amendment to be printed to LB288 from Senator Linehan. Your Committee on Government, Military and Veterans Affairs reports LB436 to General File with committee amendments attached. The Government, Military and Veterans Affairs Committee reports on appointees to the state personnel board, the Nebraska Tourism Commission. Additional study resolutions: LR194 by Senator Hilgers; LB195 by Senator Hilgers; LB196 by Senator Vargas; LB197, also by Senator Vargas; LB198 by Senator Wishart. That's all I have at this time.

FOLEY: Thank you, Mr. Clerk. Members, pursuant to the agenda we're going to move back to the Final Reading bills shown on page 1 of your agenda, the second block of Final Reading bills. If all senators could please be at their desks for Final Reading. Now proceed to Final Reading, LB300E. Mr. Clerk.

ASSISTANT CLERK: (Read LB300 on Final Reading.)

FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB300E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: (Record vote read.) The vote is 43 ayes, 0 nays, 4 present and not voting, 2 excused and not voting, Mr. President.

FOLEY: LB300E passes with the emergency clause attached. Next bill is LB300AE.

ASSISTANT CLERK: (Read LB300A on Final Reading.)

FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB300AE pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

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

Floor Debate
May 21, 2019

ASSISTANT CLERK: (Record vote read.) The vote is 44 ayes, 0 nays, 3 present and not voting, 2 excused and not voting, Mr. President.

FOLEY: LB300AE passes with the emergency clause attached. Our next bill is LB460E. Mr. Clerk.

ASSISTANT CLERK: Mr. President, motion on the bill. Senator Howard would move to return LB460 to Select File for specific amendment.

FOLEY: Senator Howard, you're recognized to open on your motion to return the bill.

HOWARD: Good afternoon, colleagues. I'm moving to return this bill to Select File because we have to make one technical change at the request of the Governor's Policy Research Office. As a reminder, LB460 codifies new fingerprinting and background check requirements under federal law for both staff at child care providers and staff in residential facilities serving wards of the state in our child welfare program. Currently, the state is out of compliance with federal law and we need to pass this bill in order to come into compliance and avoid significant financial penalties. Late last week, the Nebraska State Patrol was informed by the FBI that the required search of the National Crime Information Center's National Sex Offender Registry referenced on page 11, lines 13 and 14, of the Final Reading copy is improper. That registry is used solely for justice purposes and may not be used for licensing homes in the child welfare system. As a result, the FBI has indicated that they would not be able to run any of the required background checks unless the reference to that registry is removed. Again, we do need to pass this bill to come into compliance with federal law and to avoid significant financial penalties. And I would urge your support of this motion and this amendment so we can bring the bill back to Select for this minor change. Thank you, Mr. President.

FOLEY: Thank you, Senator Howard. Is there any discussion on the motion to return the bill to Select File? I see none. Senator Howard, you're recognized to close. She waives closing. The question for the body is return LB460E to Select File for a specific amendment. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

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

FOLEY: The bill is returned to Select File. Mr. Clerk.

ASSISTANT CLERK: Senator Howard would offer AM1891.

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

Floor Debate
May 21, 2019

FOLEY: Senator Howard, you're recognized to open on AM1891.

HOWARD: Thank you, Mr. President. AM1891 is merely the clarifying amendment that I described previously. It addresses the FBI's concerns about the National Crime Information Center's National Sex Offender Registry, which is on page 11 of the Final Reading copy and it removes it and clarifies the language. This was brought to our attention by the Governor's Policy Research Office, and we believe that this will bring this bill into full compliance and give us-- and help us avoid our federal financial penalties. I would urge the adoption of AM1891. Thank you, Mr. President.

FOLEY: Thank you, Senator Howard. Is there any discussion to AM1891? Senator Lowe.

LOWE: Thank you, Lieutenant Governor. Would Senator Howard yield to a question?

FOLEY: Senator Howard, would you yield, please?

HOWARD: Yes, I'd be happy to.

LOWE: There seems to be a new fiscal note on this bill for quite a bit of money. Can you explain the fiscal note?

HOWARD: Certainly. So LB460, just to sort of remind you of what we had done previously, brings us up into compliance for our childcare block grant and our IV-E funding for child welfare. Both of these require fingerprints as part of the background check process for childcare facilities, as well as for group homes, essentially, for our child welfare system. The reason why there's a fiscal note is because the State Patrol believes that they'll have to have additional staff to process the fingerprints in order to do it. If we do not do this bill, we will lose all of our IV-E funding, which is in the double digits millions; and then for the childcare block grant, if we do not do this bill, it's a 5 percent penalty, which is about 2.5 million out of the block grant. And so the cost, the State Patrol cost for the fingerprinting, we believe, outweighs-- the small cost outweighs the burden of having to lose all of our IV-E funding, which pays for our child welfare system, or a portion of it, and so that's why there's the fiscal note.

LOWE: Thank you, Senator Howard. I appreciate that. We've got a pretty tight budget here in Nebraska. Our money is pretty tight and we've disbursed almost all of it out. Anything with a fiscal note was not supposed to come out because we don't have the money. And now we get this where we have to do it or we lose our funding. I think we need to start thinking about what we're

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

Floor Debate
May 21, 2019

actually giving our money to and not our wants. We may lose our funding because of this. Thank you, Mr. President.

FOLEY: Thank you, Senator Lowe. Any further discussion on the amendment? I see none. Senator Howard, you're recognized to close on your amendment, AM1891.

HOWARD: Thank you, Mr. President. I want to thank Senator Lowe for drawing the body's attention to sort of the cost benefit analysis that the HHS Committee did when we were considering this and the bills that are attached to it. Because the burden is so great and the loss to the state would be so great if we choose not to pass LB460, we do feel like the sort of small fiscal note that the State Patrol incurs is certainly worth the benefit to the children of our state and ensuring their safety by ensuring that the people who are around them are appropriately background-checked through a fingerprint system. So I would urge the adoption of AM1891 today. Thank you, Mr. President.

FOLEY: Thank you, Senator Howard. The question for the body is the adoption of AM1891. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 44 ayes, 0 nays on the adoption of the amendment.

FOLEY: AM1891 is adopted. Senator Slama for a motion.

SLAMA: Mr. President, I move that LB460E be advanced to E&R for engrossing.

FOLEY: Members, you've heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB460E advances. Pursuant to that action, we'll pass over the A bill and move on to LB675E. The first vote, Mr. Clerk, is to dispense with the at-large reading. Those in favor of dispensing with the reading vote aye; those opposed vote nay. Record, please.

CLERK: 31 ayes, 10 nays to dispense with the at-large reading.

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

ASSISTANT CLERK: (Read title of LB675.)

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

Floor Debate
May 21, 2019

FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB675E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Record, please.

CLERK: (Record vote read.) 48 ayes, 0 nays, 1 excused and not voting.

FOLEY: LB675E passes with the emergency clause attached. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following three bills: LB300E, LB300AE and LB675E. We'll now proceed to Select File, 2019 priority bills.

CLERK: Mr. President, with respect to the Select File bills, LB492, Senator, I have E&R amendments, first of all.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that the E&R amendments to LB492 be adopted.

FOLEY: Members, you heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted.

CLERK: I have nothing further on the bill.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB492 be advanced to E&R for engrossing.

FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. We're going to take a machine vote on this. Those in favor of passing, or excuse me, advancing LB492 vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 29 ayes, 7 nays on the advancement of the bill.

FOLEY: LB492 advances.

CLERK: Mr. President, LB592, Senator, I have E&R amendments, first of all.

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

Floor Debate
May 21, 2019

SLAMA: Mr. President-- oh, sorry. Mr. President, I move that the E&R amendments to LB592 be adopted.

FOLEY: Members, you heard the motion to adopt the E&R amendments to LB592. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted.

CLERK: I have nothing further on that bill, Senator.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB592 be advanced to E&R for engrossing.

FOLEY: Members, you heard the motion to advance LB592. Those in favor say aye. Those opposed say nay. LB592 advances.

CLERK: Mr. President, LB690 has an amendment. Senator, LB323, I have E&R amendments, first of all.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that the E&R amendments to LB323 be adopted.

FOLEY: Members, you heard the motion to adopt the E&R amendments to LB323. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted.

CLERK: I have nothing further on LB323, Senator.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB323 be advanced to E&R for engrossing.

FOLEY: Members, you heard the motion to advance LB323. Those in favor say aye. Those opposed say nay. LB323 advances.

CLERK: LB323A, Senator, I have E&R amendments, first of all.

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

Floor Debate
May 21, 2019

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that the E&R amendments to LB323A be adopted.

FOLEY: Members, you heard the motion to adopt the E&R amendments to LB323A. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted.

CLERK: I have nothing further on that bill, Senator.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB323A be advanced to E&R for engrossing.

FOLEY: Members, you heard the motion to advance LB323A to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB323A advances. Members, pursuant to the agenda, we'll now move to General File, 2019 Senator priority bills, LB481. Mr. Clerk.

CLERK: Mr. President, LB481 was a bill originally introduced by Senator Bolz. (Read title.) The bill was introduced in January, referred to the Appropriations committee. The bill was advanced to General File. I do have committee amendments pending, Mr. President.

FOLEY: Thank you, Mr. Clerk. Senator Bolz, you're recognized to open on LB481.

BOLZ: Thank you, Mr. President. LB481 creates the Brain Injury Trust Fund with the amendments proposed by the Appropriations Committee. The fund is to be utilized to provide grants to community providers of brain injury resource facilitation and other services, data collection, and community and provider education. The source of the grant funds will be the Health Care Cash Fund. These funds won't flow out of the Health Care Cash Fund until the second year of the biennium. The Appropriations Committee does think that with the additional returns under the good stewardship of Michael Newman and the Investment Council, the Health Care Cash Fund can sustain this expenditure. This is actually Senator McDonnell, his LB642, and so I will yield the remainder of my time to Senator McDonnell.

FOLEY: Senator Bolz, I didn't hear who you were yielding time to.

BOLZ: Senator McDonnell, please.

Floor Debate
May 21, 2019

FOLEY: Thank you, Senator Bolz. Senator McDonnell, you're yielded 9:00.

McDONNELL: Thank you, Senator Bolz. Thank you, Mr. President. Good afternoon, colleagues. Before I get to the merits of the legislation, I would like to again thank Senator Bolz for allowing me to utilize LB481 as a vehicle for this amendment. I'd like to thank Speaker Scheer for his support in allowing me-- to be drafted to his personal priority bill. And I would like to thank Senator Stinner and the members of the Appropriations Committee for working with me to advance this important legislation. AM1815 to LB481 is comprised of LB462, an amendment by Appropriations, AM1501. LB642 proposes to adopt the Brain Injury Trust Fund Act by creating the Brain Injury Oversight Committee and the Brain Injury Trust Fund. AM1501 reduces the annual dollar amount being appropriated from Nebraska Health Care Cash Fund from 1 million to 500,000 beginning in fiscal year 2020-21. LB642 does not have a General Fund impact. Brain injury can happen to anyone, anywhere, at any time. It is not an occurrence that anyone plans for and far too often the extent of the injury can go undiagnosed for days, months, and even years leaving the victims and their families or care givers with profound consequences ranging from medical care and employment issues to financial burdens and emotional distress. Traumatic brain injury is unfortunately a common occurrence. It happens when least expected and it comes with many diagnosis-- I'm sorry, with many disguises. A wide range of accidents to include a blow or a bump to the head, a fall, an assault, or a traffic accident can cause brain injuries. A sports-related injury diagnosed as a minor concussion can lead to a much more substantial injury in the brain without proper care and follow-up treatment. Additional causes which can result in brain injury includes stroke, aneurysms, tumors, cancer, and infections. According to statistics provided in today's handout, there are more than 36,000 Nebraskans living with an invisible disability due to a brain injury. And based on the 2016-17 data, someone in Nebraska will sustain a brain injury every hour of the day, every day of the year. It is likely that each one of us here today can relate to a personal brain injury experience which has affected someone we know and/or love, a family member, a friend, a neighbor, a colleague, a classmate, or even perhaps yourself. The purpose in the heart of this legislation is to provide Nebraskans who have fallen victim to a traumatic brain injury with much needed support for both patients and their families through the resources, facilitation, training, education, public awareness, prevention, and research. LB481 is amended by AM1815, establishes the Brain Injury Oversight Committee which shall consist of nine public members and the following directors or their designees: the commissioner of education; the director of Behavioral Health and Department of Human Services; the director of Public Health and the Department of Health and Human Services; and nine public members shall be appointed by the Governor to include individuals with a brain injury or a family member of individuals with a brain injury; representative of the public or private health-related organization; a representative of the developmental disability advisory or planning group within Nebraska; a representative of service providers for individuals with brain injury; and a representative of a nonprofit brain injury advocacy organization. The bill further establishes the Brain Injury Trust Fund with the

Floor Debate
May 21, 2019

legislative intent to annually appropriate 500,000 from the Nebraska Health Care Cash Fund beginning the fiscal year 2020-21. For purposes of carrying out the Brain Injury Trust Fund Act, again there is no impact to the General Fund. The Brain Injury Trust Fund would be administered through a contract with the University of Nebraska Medical Center for administrative, accounting, and budgeting purposes. It would also be utilized to pay for contracts with outside sources that specialize in this area. These outside sources shall operate statewide and also in targeted areas with individuals who have sustained a brain injury. Such outside sources will additionally work to secure and develop community-based services, provide support groups, and access to pertinent information, medical resources; and services, referrals, and education professionals who work with brain injury victims. As outlined on page 3 of the amendment, expenditures from the fund may also be utilized for resource facilitation, voluntary training for services, providers, follow-up contact, promotion of awareness, support research, providing the monetary quality improvement process, as well as data collection and evaluation. Each of these critical components serve as a steppingstone towards treating and assisting current and future recipients of traumatic brain injuries. I will point out that no more than 10 percent of the fund shall be used for administrative purposes. Furthermore, it shall be the responsibility of the Brain Injury Oversight Committee; one, to provide financial oversight and direction to the University of Nebraska Medical Center in the management of the fund; two, to develop criteria for the expenditures made from the fund; and three, represent the interests of individuals with brain injury as well as their families through advocacy, education, training, rehabilitation, research, and prevention. I will reiterate that brain injury can happen to any one of us anywhere at any time. It only takes a split second to change our lives. I can't do justice to what these families have gone through, but I can ask for your support of this bill, LB481, as amended to AM-- by AM1815. It takes a substantial step in educating, assisting, and supporting current and future brain injury victims, as well as their families or care givers in an effort to provide the best recovery possible. With that, I would greatly appreciate your support. Thank you.

FOLEY: Thank you, Senator McDonnell. As the Clerk indicated, there are amendments from the Appropriations Committee. Senator Bolz, if you could handle that committee amendment for us, please.

BOLZ: Thank you, Mr. President. I think the content of the Appropriations Committee amendment has been well-described by my introduction and Senator McDonnell. I would note that the major-- one of the major differences between Senator McDonnell's bill as introduced and the committee amendment is the fiscal impact. It is \$500,000 from the Health Care Cash Fund in the second year of the biennium. Thank you, Mr. President.

FOLEY: Thank you, Senator Bolz. Debate is now open on LB481 and the pending Appropriations Committee amendment. Senator Bolz, you're first in the queue.

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

Floor Debate
May 21, 2019

BOLZ: Thank you, again, Mr. President. I just wanted to rise in praise of Senator McDonnell and his good work here. The one thing that I wanted to add as a personal comment on this piece of legislation is that while we have a brain injury waiver, that waiver is very narrow and it doesn't support people who don't qualify for nursing facility level of care. And so those folks who have a very severe brain injury that doesn't meet the need of institutional level of care are grappling with their needs and demands in the community. And they don't always have the supports that they need. There has been plenty of research that has shown through surveys of those individuals that one of their greatest needs is information and assistance with navigating the resources that are available to them. And so I applaud Senator McDonnell, I support this bill wholeheartedly, and ask for your support. Thank you, Mr. President.

FOLEY: Thank you, Senator Bolz. Senator Howard.

HOWARD: Thank you, Mr. President. Would Senator McDonnell yield to a question?

FOLEY: Senator McDonnell, will you yield, please?

McDONNELL: Yes.

HOWARD: Is this a one-time use of the Health Care Cash Fund or is this going to be an ongoing expenditure out of the Health Care Cash Fund?

McDONNELL: Ongoing.

HOWARD: OK. Thank you. I have no further questions for you. We have got to stop taking money out of the Health Care Cash Fund. All right? It funds our disability services. It funds Medicaid. It funds healthcare. It funds a lot of preventive stuff that we don't want to take out of the General Fund. We have got to stop taking money out of the Health Care Cash Fund. All right? Half a million dollars annually out of the Health Care Cash Fund that is not solvent, we are already eating the principal. Come on. We can do better than this. But every single year, this is the second Mike McDonnell bill that we are considering that is taking money out of the Health Care Cash Fund. We are eating the principal. It will not be there into perpetuity. We are one of the last states that still has a Health Care Cash Fund using these tobacco settlement funds. We have got to stop taking money out of the Health Care Cash Fund. It will not be there when we need it most, and if you want property tax relief, you want to make sure that the Health Care Cash Fund continues in perpetuity. So stop taking money out of the Health Care Cash Fund. This is ridiculous. This is the second time we've talked about it this year. Ridiculous. I have no beef with the Brain Injury Trust Fund, none whatsoever. But when you're taking money out of the

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

Floor Debate
May 21, 2019

Health Care Cash Fund and then, what, taking money out of our Developmental Disabilities Funds, taking money out of Medicaid, taking money out of healthcare, taking money away from the federally qualified health centers, where is that money going to come from? This doesn't live forever. Money doesn't grow on trees. John Lowe knows that-- Senator Lowe, I apologize. I'm a little hot right now. We have got to stop taking money out of the Health Care Cash Fund. It will not be there for the senators who follow us in the future. All right? And that is as firm as I can get on this floor. I have no beef with LB481. But we have got to stop taking money out of the Health Care Cash Fund. I will not be supporting this appropriation. Thank you, Mr. President.

FOLEY: Thank you, Senator Howard. Senator Slama. She waives the opportunity. Is there any further discussion on the committee amendment or the bill? The question for the body is the adoption of AM1815, Appropriations Committee amendment. Those in favor vote aye; those opposed vote nay. Senator Bolz.

BOLZ: I think given the current circumstances this afternoon I'd like a call of the house and a roll call vote, please.

FOLEY: Thank you, Senator Bolz. 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: 20 ayes, 6 nays to place the house under call.

FOLEY: The house is under call. All members please return to your desk, check in. The house is under call. Senator Groene, could you check in, please. The house is under call. All unauthorized personnel please leave the floor. The house is under call. All senators please check in. Senator DeBoer, please return to the Chamber and check in. The house is under call. Senator Bolz, we're lacking Senator DeBoer. We could proceed or wait.

BOLZ: We can proceed, but I don't believe I was offered an opportunity to close on the amendment.

FOLEY: Senator Bolz, I apologize. That's my error.

BOLZ: May I close?

FOLEY: I'm informed by the Clerk that we're in the middle of a vote and I can't recognize you for that purpose. I apologize again. Thank you, Senator Bolz. Members, the question for the

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

Floor Debate
May 21, 2019

body is the adoption of Appropriations Committee amendment AM1815. There has been a request for a roll call vote. Mr. Clerk, please call the roll.

CLERK: (Roll call vote taken.) 23 ayes, 15 nays on the adoption of committee amendments.

FOLEY: The committee amendments are not adopted. I raise the call. Mr. Clerk.

CLERK: Mr. President, Senator Matt Hansen would move to reconsider that vote.

FOLEY: Senator Matt Hansen, you're recognized to open on your reconsideration motion.

M. HANSEN: Thank you, Mr. President, and good afternoon, colleagues. I was not voting in that last vote and would have been the 25th had there been an opportunity mainly for just the process and procedure. It's my understanding that there was kind of a mistaken process and Senator Bolz did not get to close on her amendment. So I filed this reconsideration motion by being not voting and with that I would yield the balance of my time to Senator Bolz.

FOLEY: Thank you, Senator Hansen. Senator Bolz, you're yielded 9.50.

BOLZ: Ha, ha, ha, thank you, and thank you, Senator Hansen for the reconsideration motion. I do appreciate the committee's thoughtfulness regarding use of the Health Care Cash Fund. I do think it's, perhaps, worth reiterating that we are seeing better returns on investment through the good work of the Nebraska Investment Council, and the Appropriations Committee did vote out this amendment in order to try to support the important purposes of creating resource facilitation for individuals who are suffering from brain injuries. I will ask you to support the reconsideration motion and the Appropriations Committee amendment. I do think that this is good legislation that helps individuals with brain injuries and I do think, while the caution is appropriate for use of the Health Care Cash Fund, people with traumatic brain injuries, if they have escalating needs, are at risk of reaching institutional level of care and can be more expensive. So I would ask for your support of survivors of traumatic brain injury, your support of the reconsideration motion, and the amendment as well as the bill. Thank you, Mr. President.

FOLEY: Thank you, Senator Bolz. Debate is now open on the reconsideration motion. Senator Slama.

SLAMA: Thank you, Mr. President. I would just like to yield my time to Senator Howard if she would like to just reiterate the importance of the Health Care Cash Fund.

Floor Debate
May 21, 2019

FOLEY: Thank you, Senator Slama. Senator Howard, 4:50.

HOWARD: So, the Health Care Cash Fund was originally created after the tobacco settlement. Every state in the country who participated in a lawsuit against the tobacco companies was given a certain settlement amount in perpetuity. And a lot of other states took that settlement amount and immediately spent it. Nebraska, on the other hand, took that settlement amount and said, no, we are going to make sure that we have some type of fund to pay for healthcare services and specific needs for vulnerable populations into perpetuity. So we do get about \$32 million into the fund every year and then we are sending out more than \$32 million out of the fund every year. And so we are spending more out of the Health Care Cash Fund, we are eating the principal of the Health Care Cash Fund. So I'm doing this all from memory because I don't have my Health Care Cash Fund report with me right now. I need to find it again. But some of our biggest items or expenditures: one goes to the university for research; that's one of our biggest expenditure items. One of them actually helps pay for developmental disabilities, for individuals with developmental disabilities. So these are people who are on the wait list. For those of you who will be here for several years, you will often hear about individuals who have developmental disabilities and they're on the wait list and they are waiting for services and we don't have enough money to pay for them to get those services. And so we allocate money out of the Health Care Cash Fund for individuals with developmental disabilities. We allocate money to the federally qualified health centers, to our public health departments, which, P.S., in Nebraska, our public health departments are actually quite new. And so the fact that we have public health departments at all is because of the Health Care Cash Fund. And so if that Health Care Cash Fund goes away, not only will we be looking at, oh, I don't know, somewhere upwards of about \$40 million every year that we would have to find money for out of the General Fund if the Health Care Cash Fund goes away, but we would also have no public health departments, a significantly longer wait list for developmental disabilities. We would have FQHCs who weren't able to serve as many people. And so, yes, when I get on this floor and I talk about preserving the Health Care Cash Fund, that's what I'm trying to preserve, is healthcare for our most vulnerable. This is an appropriate allocation from it, when we were talking about LB311, that maybe wasn't, but we let that one go, we came to an agreement, we came to an understanding. No one spoke with me about LB481. I had no idea that half a million dollars was going to come out of the Health Care Cash Fund in perpetuity when we are already eating the principal. Colleagues, if you want to make sure that we continue to fund healthcare services in the state to the level that we would like to see them at, the best way to do that is to preserve the Health Care Cash Fund, not continue eating the principal. We are stewards, we are fiscal stewards in this state. And the senators who came before us were thoughtful enough to create a fund for healthcare and we are eating the principal. And these enormous allocations eat the principal to the point where the burden of ensuring that these services continue because, gosh, we need them. People with developmental disabilities need them. Healthcare entities need these services. Patients need these services. All of the burden of what is coming out of the Health Care Cash

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

Floor Debate
May 21, 2019

Fund will subsequently fall on to the General Fund if the Health Care Cash Fund goes away. So, colleagues, I implore you to reconsider LB481. We can do it next year. We can look at other sources of funding. Shoot, I'm interested in increasing the tobacco tax--

FOLEY: One minute.

HOWARD: --so that that can go into the Health Care Cash Fund. I'm very interested in that. We can talk about that more. We can up it to a dollar. We could put a portion of it into property tax and we could put a portion of it into the Health Care Cash Fund, and then you can have all the Brain Injury Trust Funds that you would like. But because we have not considered that, I do not support LB481 and I do not support taking this money out of the Health Care Cash Fund. Thank you, Mr. President.

FOLEY: Thank you, Senator Howard. Senator Howard, you're actually next in the queue, you may continue, five more minutes.

HOWARD: Oh, I feel like my colleagues have probably heard enough from me on the Health Care Cash Fund. But just know that this fund with term limits, people forget why we did things in the past. This fund was created for healthcare, this fund was to make sure that we could pay for public health and healthcare and disabilities and research at the university, and when that fund goes away, either all of those things go away or the burden falls to the General Fund. So if you're interested in property tax relief, you want to keep the Health Care Cash Fund going, solvent, in perpetuity, we can talk about tobacco taxes, that would be super fun, I'm interested in that. But really, what I'm asking you to do today is consider whether half a million dollars coming out of the Health Care Cash Fund in perpetuity until that Health Care Cash Fund is completely depleted is what we would like to be doing as a body today. Especially when, gosh, we have a lot of other things to talk about. We've got property taxes, we got ImagiNE Act, we've got plenty to do without trying to take more money out of the Health Care Cash Fund today. So colleagues, I would implore you to not support LB481 and I really enjoy-- Senator McDonnell and Senator Bolz are two of my favorite people here, but I disagree with them wholly on where these funds are coming from. So with that, thank you, Mr. President.

FOLEY: Thank you, Senator Howard. Senator McCollister.

McCOLLISTER: Thank you, Mr. President. Good afternoon, colleagues. As usual, Senator Howard was right on target. We can't continue to deplete the Health Care Cash Fund, simply not good policy. I understand that and I think she's, as I say, absolutely right. Another topic, it may well be that Senator Briese's LB183 will be the last property tax relief bill in the hopper this year. It is the last train leaving the station, I think. So, how can we kill two birds with one stone?

Floor Debate
May 21, 2019

What I suggest we do is simply raise the cigarette taxes, use that revenue and put that in the Health Care Cash Fund, then we could actually fund LB481. We should do that. Everybody wins. Consider that if you will, colleagues, when Senator Briese's bill comes up maybe we can persuade him that we can bring enough people on board this bill by raising the cigarette taxes and using this money to finance this very worthy project, LB481. Thank you, Mr. President.

FOLEY: Thank you, Senator McCollister. Senator McDonnell.

McDONNELL: Thank you, Mr. President. Thank you, Senator Howard, even though I totally disagree. If you look at what we worked on in Appropriations and looking at some of the funding that is going to be dropping off with the cannabis study, that was 250,000. We had a total with the ADRC's dropping off, and that was 953,000. But let's talk about the principal, let's talk about the health of this Health Care Cash Fund which comes from the tobacco settlement. And if you look at the last few years, and this is going back approximately 20 years, but we're at currently, and I'm not touching the principal, this second year of using the Health Care Cash Fund for this bill would be based on 2020-21, not this year. But right now we're currently at \$451,866,000, we increase between 2017 and 2018, again on the principal, from 7.89 percent to 17.37 percent. That's how much we increased. Going back an average, looking at it from 2001 to 2018, we've increased on an average of 15.28 percent. So I am not looking at touching the principal, but let's also make sure we understand, we're spending money out of this Health Care Cash Fund for a number of things, and right now we're spending it at the tune of \$65 million, \$65 million. So that cigarette tax at 1.25 million, with the current transfer amount, and also so everyone knows that we're averaging between 35 and 40 million dollars a continuous a year on top of the \$451 million that we have right now. So with the idea of discussing this, working on it with Senator Stinner as the Chair of the Appropriations Committee, running the numbers and making sure that we're looking out for the financial health of the Health Care Cash Fund, that's what we did. Now we're talking about a citizen, one every hour in the state of Nebraska that's going to have a traumatic brain injury. One every hour. So since we've been here today, we've had eight, nine citizens, on the average, that have suffered a traumatic brain injury. We're talking about not this year, but next year, \$500,000 for this program that I haven't heard anybody say it's not a worthy bill, it's not a worthy program. We just want to make sure that we leave \$451,866,000 in the account right now for the principal, and I'm not even touching that. That has nothing to do with what we're talking about. We're talking about the additional money we receive yearly, plus the investments off the money, plus the cigarette tax. This is not hurting the health of the Health Care Cash Fund. And if she wants to talk about, as Senator Howard mentioned earlier the number of great things, I have absolutely no issue with any of the great things that are being spent, all 23 items that this money is going to throughout the year, and as of a total of \$62,000,397. But the idea this is worthy, there's things that are going to be funded and then going to drop off, so we had discussed this in Appropriations that there's well over a million dollars dropping off. There's well over a million dollars dropping off and we're not talking about the

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

Floor Debate
May 21, 2019

principal. We're talking about the amount of money going up every year and the investment. We are not hurting the health of the Health Care Cash Fund at all. Thank you, Mr. Speaker.

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

LA GRONE: Thank you, Mr. President. I think that often there are long-term financial obligations or purchases that we do well to set up more things like the Health Care Cash Fund on. For instance, election technology is a recurring purchase that we're going to have to account for that is a large amount of money that we're going to need to figure out how to budget for on a recurring basis. Now, admittedly, I don't know a lot about the Health Care Cash Fund, and for that purpose, would Senator Howard yield to a question?

FOLEY: Senator Howard, would you yield, please?

HOWARD: Yes, I will.

LA GRONE: Senator Howard, can you kind of walk me through a little bit of the history of how-- I know you mentioned it briefly. I was wondering if you could go a little more in depth. You said other states spent this money and we didn't.

HOWARD: Yeah, so in 1998, Nebraska joined with other states to sue tobacco companies for the health impacts and the cost to the state, in particular in regards to health impacts, because, obviously, when somebody smokes we know that that has an impact on their overall health status and that has had an ongoing cost to the state through, say, our Medicaid program. And so we joined with 40 other states in 1998. We won and then as part of the Master Settlement Agreement we receive a portion of tobacco proceeds annually. Every other state-- every other state essentially uses this money as a pass through. So they get their allocation and they spend it right away. In Nebraska, we created the Health Care Cash Fund with the idea that we would not use the principal but have programs run off of the interest from the Health Care Cash Fund, and then the additional funds that we get through the settlement.

LA GRONE: So, that actually answers my question perfectly. So one more question I do have, though, is, so what kind of costs are we incurring that the interest pays for?

HOWARD: When you're thinking about the programs and services that are coming out?

LA GRONE: Correct.

Floor Debate
May 21, 2019

HOWARD: Oh, gosh, there are a lot of great programs in here: gamblers assistance, tobacco prevention, respite care for the regions, our EMS technicians, Parkinson's disease, our behavioral health providers and their rate increase, emergency protective custody, which is EPCs. I know Columbus has a really big issue with EPCs when somebody is sort of unruly and we don't have anywhere to place them, this helps with that. Children's health insurance, developmental disabilities aged to help with the wait list. I apologize, I'm taking your time.

LA GRONE: No, that's fine. I was honestly-- here's what I will do. That ended my question. That was kind of getting where I was going to. But, Mr. President, I'll yield Senator Howard the remainder of my time if she has anything else to say on the topic.

FOLEY: Thank you, Senator La Grone. Senator Howard, 2:00.

HOWARD: Thank you, Senator La Grone. I'll be brief because I do want to talk specifically about the sustainability projections, and I'll just read directly from the report. In the 2018 Investment Council report to the Legislature it showed the sustainability of the fund to be at risk at the current expenditure levels. LB969 passed in the 2012 session amended the transfers to the Health Care Cash Fund decreasing the amounts by 5 percent each year starting in fiscal year '14-16 and then remaining at that level thereafter. The bill also stated legislative intent that no new programs be funded through the Health Care Cash Fund until all programs with an appropriation in fiscal year '13 are restored to their original funding levels. So essentially in 2012, everything that was taking money out of the Health Care Cash Fund took a haircut so that the Health Care Cash Fund would remain stable and we wouldn't be eating the principal. And then they recommended that we not have any new programs come out of the Health Care Cash Fund. Essentially, colleagues, we need to really consider our priorities out of the Health Care Cash Fund and whether or not this is one of our priorities. And if so, if the half million dollars will be taken from the principal the way we currently are, if this is what we want to spend our half a million dollars on. Thank you, Mr. President.

FOLEY: Thank you, Senator Howard. Senator Brewer.

BREWER: Thank you, Mr. President. This bill is-- kind of had us with some weird partnerships just because it --it's different than most of the bills in that we each have our particular reason for supporting or not supporting. And I understand the budget issue that Senator Howard has. But I guess the challenge I have is that because I had a traumatic brain injury and had to go through a process through Madonna, and it took most of a year to get to where you were as close as you were ever going to be to the way you used to be, it gave me a special appreciation for it. And a traumatic brain injury is an invisible injury. And more than anything it just affects your ability to remember and communicate. And that process that I went through gave me a whole new

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

Floor Debate
May 21, 2019

appreciation, because some of the folks that you work with in there are some that have strokes and other injuries. So it's hard to walk away and not support Senator McDonnell in what he's trying to do here because I've got a very personal issue with this and I-- you know, my injury was obviously overseas doing things that are a little different than most brain injuries, but the way to work through that and get treatment, and the idea that we have a program that could help and we're discussing whether or not it's worthy of part of a very, very large nest egg, I guess I'm troubled with. With that said, I'd like to yield the remainder of my time to Senator McDonnell.

FOLEY: Thank you, Senator Brewer. Senator McDonnell, you've been yielded 3:10.

McDONNELL: Thank you, Senator Brewer. Thank you, Mr. President. Some of the areas that we were talking about and I want to overly emphasize. This is not going to come out of the principal. It is not. Some of the other areas that we're taking out in 2019, we took out \$62,855,000 was the Legislative Council for \$75,000; Attorney General tobacco settlement enforcement, 500,000; the gamblers assistance, 250,000. There's a total of 23. And the tobacco prevention control for 2.5 million; EMS technicians regulations for 13,000; there's a lot of-- there's nothing on this list --and again as I mentioned earlier, the cannabis study is dropping off and the ADRCs that were scheduled for two years at 935,000 is dropping off. So I don't have a problem with any of the money that we're currently spending based on the tobacco settlement. And remember, this came from the tobacco settlement. And we are still adding between-- on the average, \$37 million a year without looking at the investment of the money. But also we are not touching the principal of \$451,000,866. So, which has increased, and I just want to make sure everyone understands this. Over the last 20 years, there's been three years that we took a step back on the investment of the money; we decreased, three years. And the last one was 2016 at 2.87. By 2017 we increased 7.89, and 2018 we increased 17.37. We are not hurting the financial health of the Health Care Cash Fund. We're talking about next year, we're talking about '20-21, a half million dollars for people with traumatic brain injuries. I want you to understand that this is what we're spending the money on. This is a need, this isn't a want. One every hour on the average, we have a citizen in our state that has suffered a traumatic brain injury. So what we're--

FOLEY: One minute.

McDONNELL: Thank you, Mr. President.

FOLEY: It's one minute, Senator.

McDONNELL: Oh, one minute, thank you. So trying to make sure we focus. And as the Appropriations Committee and discussing this, again there's not a dime of this coming out of General Fund. At first we were talking about a million dollars per year; we reduced that to a half

Floor Debate
May 21, 2019

a million dollars starting 2021, looking out for the health of the Health Care Cash Fund. We are doing this for people in this state that need help. Thank you, Mr. President.

FOLEY: Thank you, Senator McDonnell. Senator Hilkemann.

HILKEMANN: Thank you, Mr. Lieutenant Governor. I rise to support this motion to reconsider and also to talk just a little bit about the Brain Injury Trust Fund and why I'm supporting it and while I think it's-- while I think it's also a good fit to take it from the Health Care Trust Fund. When you go look at-- if you -- if you have a few moments just go on-line and look what-- what coming out of the Health Care Trust Fund, you can find that on the Internet. There are-- there are a number of projects-- of allocations that come out of that trust fund. When this was-- when Senator McDonnell brought this to the committee, one of the big things-- and I looked at it and I thought you know, this \$500,000, it's not that much and we're not certainly going to be treating very much for brain injuries, that's-- brain injuries are very, very expensive. But when the people who came to testify on it, this is-- this is just the beginning as far as for education on the importance if you have a head injury, that you need to consider even the most minor of head injuries can have traumatic, traumatic results. And it reminded me of my own brother who a little over five years ago, riding his bicycle on a trail, near-- in Illinois, hit some leaves, went down, was wearing a helmet, hit his head and got a little gash on his knee. He called me, he was planning to come out and do some door to door with me. And he called me, said Robert, he said I took a little fall on my bike today, and he said I got this knee, and he said I kind of got a little bit-- I may have blacked out for a little bit and so forth. And so at either rate, I said, well, Larry, I said the last thing you need to do is to drive back to Omaha, Nebraska. And I said, I think we're doing OK. We're going to keep on going. And you need to be back there at home getting better on this injury. And couple of days later he had go-- get some medical check, scan was done, he thought everything was OK. Week after my election as the-- to the District 4, we were all together in San Antonio as a family. We had a wonderful time. My brother was having some difficulties with his memory. He had a little bit of memory loss prior to this injury. But at either rate, it was worse. I said, you need to get this checked out. And I said to him, one of the last time in-- I said to him, what are you looking forward to? He said I'm looking forward to preaching next Sunday. And he did his sermon, he was a guest pastor at a sermon. And if you ever wanted to have a-- hear a final sermon of someone, it was my brother's. And the next morning he had difficulties getting up out of bed, his wife took him to the hospital, and indeed he'd had a small brain bleed that had been in there for over six weeks. And surgery was done, but it was too late, and my brother died about a week later. And folks, this-- this is --brain injuries are- what we don't know about them is just incredible. And so--

FOLEY: One minute.

Floor Debate
May 21, 2019

HILKEMANN: --I think it's important that we start this process. We're not the only state that has-- or we don't have this. We want to start it. And it's going to begin mainly with an education process to people who have had these type of injuries, and these occur all the time, in recreation and just normal falls and so I think it's an important avenue that we do it. And I think that taking it from Health Care Trust Fund is a-- is an appropriate fund to do it. And, therefore, I suggest that we reconsider this motion and I would say, let's do a green vote on this. Thank you very much, Mr. Lieutenant Governor.

FOLEY: Thank you, Senator Hilkemann. Senator Stinner.

STINNER: Thank you, Mr. President. Members of the Legislature, I guess Senator McDonnell took us through the numbers and I will say right off that I have a high regard for Senator Howard and what she's trying to do and what she's trying to protect. I, too, am trying to protect the Health Care Cash Fund. When this bill came up-- first of all, it was one of the few bills we had. I had-- I mean my e-mail exploded. I read the bill. I listened to the testimony and read the testimony, over again. It's a worthy bill. Certainly Senator Brewer can speak to that probably as best as anybody here. But I'm going to say I've had a running battle since I showed up here in the Legislature about the report that's issued by the investment officer. And he and I actually had a discussion over the summertime, not only a discussion but a hearing over sustainability of this fund. Now, the key to this argument is, what is sustainable? He readily admits over the long-term period of time that 6.6 percent can be used as an average rate of return. Now, every year that I've been here for the last now five years, we've added to the corpus, have added to the corpus of the Health Care Cash Fund. So that's kind of my definition of it, but that's not his definition. His definition is, you have to use a 4 percent rate of return, figure in an inflation factor into this so that we can move those balances up every year to keep up with inflation. We have never done that. We've never done that. We haven't increased it, to my knowledge, maybe a few times, but since I've been here we've never increased any of those-- asked any of those balances in there. When I worked the math, and it's purely a math problem, we get from the tobacco settlement fund anywhere from 35 to 40 million dollars a year. So I use 37 and then I take 6 percent. I didn't use 6.6 percent and it's still leaves a balance. Now in order to be careful about this, we included the 500,000 only in one year. And then our intent is, obviously, to bring it back out of the Health Care Cash Fund and either put it into the General Funds mix or eliminate it or do something along those lines. I guess it depends on the Legislature at that point in time. But a serious discussion needs to happen. I think Senator Howard would be the perfect candidate to lead that. Should this be an endowment where we don't touch the principal? Should it be? Because it is not an endowment today. It is not a trust today. It just has that name on it. So that's probably the better part of the debate. I can assure you just numerically if it pushes the principal back in any fashion, it's not going to be material, it will be of small amount. The chances are better with what we have today in rates of return. The chances are better we're going to add once again to the corpus of this-- of the Health Care Cash Fund. So if you-- I would say this that from the

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

Floor Debate
May 21, 2019

definition of 4 percent plus an inflation factor, if that's sustainability in your mind, so be it. But that's not what we're doing. We are trying to provide a source of funds to finance brain trust-- Brain Injury Trust Fund. And I think that's a worthy cause. We have room for it. And I think that the encroachment on principal will be either very minor or that, more likely, we're going to add 3 to 4 to 5 million dollars to the corpus balance. So we do have room in this thing. It is a math problem. And it is a problem in terms of terminology between myself and what I'm putting out there for you in historically what has happened in the trust fund versus what indeed Michael Newman has indicated is his definition. So two different definitions. That's on his report. I've assailed him on his report every year. I've had this conversation with him every year. I've talked to him about the fact that, hey, we've added 10 million, \$20 million to the corpus. Well, you know, yeah, the rate of return was more than we took out, but it's ever year. And now we're into a balance that will support a little bit more. Do we need to continue to look at it? Sure. But do we need to look at what the definition of this is? Yes, we do. And I'm-- I would probably task Senator Howard to come back next year with a bill that says, do we want to endow this or do we not want to endow this? Then we get into a long-term sustainability question and then we have that inflation factor. Do we want to include the inflation factor, do we not want to include the-- so far that has not been the case.

FOLEY: That's time.

STINNER: So the math works.

FOLEY: That's time, Senator.

STINNER: In my estimation the math works. It's a good bill. I think it should be passed.

FOLEY: Senator, that's time.

STINNER: Thank you, Mr. President.

FOLEY: Thank you, Senator Stinner. Mr. Clerk, for announcement.

CLERK: Mr. President, the Executive Board will have an Executive Session at 4:30 underneath the south balcony.

FOLEY: Thank you, Mr. Clerk. Continue discussion. Senator Cavanaugh.

Floor Debate
May 21, 2019

CAVANAUGH: Thank you, Mr. Lieutenant Governor. So I wanted to talk about tobacco tax yet again. Seems like a great opportunity when we're talking about the Traumatic Brain Injury Trust Fund because my bill, LB710, which increases the tobacco tax by a dollar fifty to \$2.14 would have funded this program. Traumatic brain injury is something that those who smoke can suffer from. Smoking causes stroke which is a traumatic brain injury. And yet again, we are faced with a fiscal problem and we are continuing to ignore a very important opportunity for a solution, which is to decrease state spending on healthcare costs by hundreds of millions of dollars by increasing the tobacco tax. And not only would we decrease our healthcare cost and rates of traumatic brain injury in this state if we increased our tobacco tax, we also would create revenue to fund things like the Traumatic Brain Injury Trust. I have concerns, I share concerns about dipping into the Health Care Cash Fund and I'm going to continue to listen to everyone today. But I would like to yield the remainder of my time to Senator Howard to hear more from her on this very important issue.

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

HOWARD: Thank you, Mr. President. So I want to be really clear that my issue here is not with the merits of LB481, or the merits of creating a Brain Injury Trust Fund. I am probably the person who has had the most recent experience with a brain injury because my father-in-law had a subdural hematoma. And then he passed away from it two days after his diagnosis. He just-- he was on blood thinners, so the blood was very thin, it could go a lot of places and he had dementia so his brain was smaller than a normal person's brain. So it could just bleed and bleed and bleed and bleed and bleed. So I'm very familiar with the effects of a brain injury. I'm very familiar with that. What I don't want to be familiar with is the state not having enough money to pay for their healthcare priorities because we have depleted the Health Care Cash Fund. Now, Senator Stinner has an ongoing dispute with the Legislative Investment Council. That's not for me to decide. I have to trust that when I get a report from the Legislative Fiscal Office and the Investment Council that they're telling me the truth and that I can make policy off of it. Now there are several times where I have disagreed with reports that come out, but in this regard when I'm being told by the Investment Council that this fund is not sustainable at the current allocation, I've got to believe them. If there's a dispute with them, well, gosh, I mean, I would suppose you should take it up with them. But in my opinion, if I read the report it's not sustainable at the current allocations, we need to reconsider the allocations. I appreciate what Senator McDonnell is trying to do. We are discontinuing funds from the ADRCs and then those available funds could go to this purpose. However, when the Investment Council says they were already overallocating out of the Health Care Cash Fund, what we should do is let the ADRCs fall out and then have those funds go back to the principal. Until the Investment Council tells me otherwise, tells the Legislature in their report from the Fiscal Office otherwise that we're not using the principal, then I have to believe them. It's not just a dispute, it's not just an opinion. This is their one job is to make sure that this fund continues--

Floor Debate
May 21, 2019

FOLEY: One minute.

HOWARD: --and that this fund is accurately represented to the Legislature. The other point that I want to make is that the funds that we are getting in our Master Settlement Agreement are going down. As tobacco utilization goes down, those funds are going down. I look at Senator Briese's bill that we must moved right before this and that expands the definition of the things that can be included in the Master Settlement Agreement so that hopefully those funds won't continue going down. But it's not just that we're eating the principal, we're not getting as much in our Master Settlement Agreement as we used to. So the Health Care Cash Fund, if we're thinking about, gosh, I would love to turn it to an endowment, I'd be happy to do that. But we really need to be thoughtful about how we're spending this money. I disagree with utilizing the Health Care Cash Fund for this purpose and I worry that the things that we're currently spending Health Care Cash Fund dollars on will go away or have to be reconsidered because we're spending more money out of the fund. Thank you, Mr. President.

FOLEY: Thank you, Senator Howard. Senator Dorn,

DORN: Thank you, Mr. President. Thank you, colleagues. Part of the things we looked at in Appropriations was because of a lot of the conversation out here on the floor and a lot of the conversation Senator Howard had earlier. When we went through the Health Care Cash Fund, when we decided whether or not to have bills allowed to spend out of there or not, we looked at every aspect of this. As Chairman Stinner pointed out, we looked at the funding, we looked at everything that is used in here, every entity that is now getting funding out of the Health Care Cash Fund. In our orange book on page 67 and 68, if anybody wants to look at it, it talks about the Health Care Cash Fund, this bill here and how it is affected in there, it talks about that. And then it lists all of the things that are funded on the second page, page 68. If you look at it in the 2017-18 fiscal budget it was \$62,397,000 was spent. Due to the fact that we did not allocate others than this and the fact that some are dropping off, in the year '20-21 the Appropriations will be at 62,147,000. Thank you, and I'll yield the rest of my time to the Chair.

FOLEY: Thank you, Senator Dorn. Senator Groene.

GROENE: Thank you, Mr. President. I just wanted to give a shout out because the conversation seems to hear, if the government don't do it, it don't happen. I have a very strong brain injury alliance group in my community. They work really hard. They always want me to come to their meetings. I've not made one yet, but they've inundated me with information. They do it with donations and grants. They go from-- they knock on school doors, force themselves in, they talk to sporting coaches, and they meet with them how to identify brain injury. It's not always government. Things do happen without government creating something. I admire Senator

Floor Debate
May 21, 2019

McDonnell's efforts here and I voted the first time around for it, but let's not always think things don't happen unless the government is involved. Brain Injury Alliance does a create job. Staff is already there. The volunteers are already there. Maybe we ought to consider helping them get some grant money and let them do what they do. I don't know whether the University of Nebraska needs to be involved at all. They should be doing their research and expand it across the state anyway. So, but when you got that strong of volunteers and family members who have members of their family with brain injuries doing all this work and volunteering all the time, this seems like a little bit of duplication. And if we're trying to start from scratch when these folks have a long history of doing the work and spreading the education on identifying it, look them up. Talk to some of these folks. It's a very strong organization and I just wanted to give them a shout out. Some on this trust fund, I don't know. I know more people with brain injuries from alcohol than anybody I ever met with smoking a cigarette, so maybe you want to go after some alcohol tax, I don't know if you want to put it in the brain injury or in the health fund. So thank you, but I'm not going there. This is a great organization and tell the folks out there if you do know somebody or a family member having problems, look up the Brain Injury Alliance. They're good people and they'll help you. Thank you.

FOLEY: Thank you, Senator Groene. Senator Cavanaugh.

CAVANAUGH: Sorry, Mr. Lieutenant Governor. Thank you. Senator McDonnell, would you yield to a question?

FOLEY: Senator McDonnell, will you yield, please?

McDONNELL: Yes.

CAVANAUGH: So, Senator McDonnell, I'm trying to get creative here, problem solving on the fly. You and I talked way back when about the tobacco tax and how it made sense to put funding towards this Traumatic Brain Injury Fund through the tobacco tax because people suffer-- one of the things that you can suffer from is a traumatic brain injury, correct?

McDONNELL: Yes.

CAVANAUGH: So, I would really love to have the opportunity to do that, to honor that conversation with you and to fund the traumatic brain injury through an increase in the tobacco tax. Would you still support that?

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

Floor Debate
May 21, 2019

McDONNELL: Yes, and you had ask me to-- you were going to drop traumatic brain injury from your tobacco tax and I agreed with you, so.

CAVANAUGH: But I'd be happy to not drop it from that.

McDONNELL: You mean to re-add it, add it back to it.

CAVANAUGH: Yes, add it back in.

McDONNELL: So, I'm-- I appreciate the help, but I'd like to stick with the idea that the Health Care Cash Fund is there for these kind of reasons.

CAVANAUGH: Right.

McDONNELL: And as was pointed out by Senator Dorn and others, Senator Stinner-- we're not taking anything from the principal. And we have looked out for the financial health of the Health Care Cash Fund.

CAVANAUGH: Correct.

McDONNELL: And this is a great opportunity for us to do that starting in '20-21--

CAVANAUGH: But an additional way to help stabilize the Health Care Cash Fund would be interjecting new revenue into the fund.

McDONNELL: Of course, I appreciate any help. Thank you.

CAVANAUGH: That's what I'm looking to do. Thank you, Senator McDonnell. And I will continue working on this. Thank you.

FOLEY: Thank you, Senator Cavanaugh and Senator McDonnell. Senator Matt Hansen, you're recognized to close on your reconsideration motion.

M. HANSEN: Thank you, Mr. President. And good afternoon, again, colleagues. Just procedurally, so my motion is a reconsideration motion to the Appropriations amendment which failed by two votes. And I think this was an interesting situation, a very appropriate situation to

Floor Debate
May 21, 2019

reconsider because we had a committee amendment. I know we spent some time this session talking about the importance of committee amendments, with the committee amendment failed by just two votes, really just one because I know I would have voted for it, with 11 people either present not voting or excused. Now that we've had a little bit more debate and a little bit more discussion, I feel like, hopefully, people have made up their mind and some of those present not voting, some of those excused, are able to share their votes on the Appropriations Committee amendments. So with that I would ask for your approval of my reconsideration motion which would allow us to go back and reexamine the Appropriations Committee amendment and ultimately let Senator Stinner close on that committee amendment as committee Chair. So with that, I would ask for your green vote for my MO99 to reconsider the committee amendment. Thank you, Mr. President.

FOLEY: Thank you, Senator Matt Hansen. The question for the body is the reconsideration motion. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 26 ayes, 7 nays, Mr. President.

FOLEY: The reconsideration motion is successful which takes us back to consideration of AM1815. Is there further discussion on AM1815, Appropriations Committee amendment? Senator Cavanaugh.

CAVANAUGH: Thank you, Mr. Lieutenant Governor. I rise again to talk about the tobacco tax because I think that this is very, very important and timely that this is an opportunity for us as a body to fund something that is clearly very near and dear to many in the body's hearts, as well as it should be. The tobacco tax, again, would not only save the state hundreds of millions of dollars, there's your property tax relief, hundreds of millions of dollars, it would also generate revenue for things like a Traumatic Brain Injury Trust Fund and Medicaid expansion and expanding healthcare benefits. I would really encourage this body to think about that as we're moving forward in these final days with our revenue streams and our revenue proposals, that increasing the tobacco tax by a dollar could flush new revenue into the Health Care Cash Fund, something that we've been taking money away from for various things and it's not about the merit of things, but we are-- we are taking money away from the Health Care Cash Fund and we have an opportunity to replenish those funds so we can continue to do great things for the people of the state. And I just really hope that this body will take that seriously and will consider it in these coming days. Again, hundreds of millions of dollars in spending that we could cut by increasing the tobacco tax by one dollar. That would be an amazing thing for the future of the state. Thank you.

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

Floor Debate
May 21, 2019

FOLEY: Thank you, Senator Cavanaugh. Senator Stinner, you're recognized to close on AM1815.

STINNER: Thank you, Mr. President. Members of the Legislature, just a little bit of a reflection. There is no-- we did try in Appropriations to find some offsets for this. Things will be going away, ADRC will go away and a few other ones. So the fund will be about the same in terms of asks. I will point your attention to 2016, both funds combined were 439 million, today they're 477 million. That's an indication of what I've been trying to say, yes, the investment person who puts this together, who actually is in the top 25, if you can imagine that, of people who invest pensions, and kudos to him for that, but the long-term rate of return is about 6.6. That's what he reports, we've used 6. We think we'll add to it. Tobacco funds have been fairly stable, interestingly, and I agree with Senator Howard, at some point in time I was looking for those actually to go down. There are lawsuits that are happening that could actually generate additional funding for us, for this. I think the longer term discussion has to be endowment versus nonendowment. But first of all, this is a good bill. The Appropriations did work to make sure that there was sustainability within this fund. The sustainability in terms of the investment yields versus the principal balance and the principal ask. So with that, I would ask for your green vote.

FOLEY: Thank you, Senator Stinner. Members, you heard the debate on AM1815, Appropriations Committee amendment. The question for the body is the adoption of the committee amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 26 ayes, 7 nays on adoption of committee amendments.

FOLEY: AM1815, Appropriations Committee amendment is adopted.

CLERK: Senator Bolz, I have two amendments, Senator, from you with notes that you wish to withdraw AM614 and AM1125. Mr. President, I have nothing further on the bill.

FOLEY: Further discussion of LB481. Senator Howard.

HOWARD: Thank you, Mr. President. This is probably a good learning moment. I'm comfortable losing, right? I don't feel like I need to take it to 33. I don't feel like we need to go to cloture, but I do feel as though we had a good discussion about the Health Care Cash Fund. We had a good discussion about our priorities and that's what we're supposed to do. Sometime, and we're going to have this opportunity over the next couple of days, it's OK to just vote against something and not take it three hours and feel satisfied by the discussion that we had. Because

Floor Debate
May 21, 2019

we don't have a lot of time. And so I feel satisfied by the discussion that we had and I want to make sure that everybody who's going to be here for four more years or eight more years really thinks about the Health Care Cash Fund and remembers this moment when we're taking more money out of it when I'm not here to bang my fist on the desk. But I do appreciate what Senator McDonnell and Senator Bolz were trying to do here. And it's OK if you want to take the money out. It's OK for me to lose. But I want us to be really mindful about how we use the Health Care Cash Fund in the future. Thank you, Mr. President.

FOLEY: Thank you, Senator Howard. I see no further discussion. Senator Bolz, you're recognized to close on the advance of LB481.

BOLZ: Thank you, Mr. President. I just have a few closing comments. The first is, I do want to say that there was a great interim study hearing this summer regarding the Health Care Cash Fund and I do think the Appropriations Committee has done some due diligence in terms of analyzing the information that was provided to us from the Investment Council and using our own budgeting strategies to not just take in that information but use that information and use it to help inform our decisions, which were not only to use some funds from the Health Care Cash Fund but to counterbalance them with moving some other projects into General Fund, as well as to avoid taking away the principal and to look at the return on investment. So I do think that this is a reasonable and thoughtful fiscal strategy. All of that said, I do want to take a moment on this closing to apologize to my friend and colleague, Senator Howard. Senator Howard has been a good steward of the Health Care Cash Fund over time. Our committee should have given her the due diligence to run through some of these changes with her. I was under the understanding that that was happening, that did not occur. So I think that is a good lesson learned that each of us have projects and priorities that are important to us, and those collegial conversations are pretty important to making sure that things go smoothly on the floor. My final comment on LB481 is that I'm so proud to represent Madonna Rehabilitation Center which is in District 29, which my older sister Kelly works at, and I am so pleased to be able to go home to District 29 and tell my sister and Madonna Rehab that when they do that incredible work to put a brain and a body back together that there will be more support in the community for those survivors to go live and thrive and succeed. So please push your green light and advance LB481. Thank you, Mr. President.

FOLEY: Thank you, Senator Bolz. The question for the body is the advance of LB481 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 32 ayes, 1 nay, Mr. President, on the advancement of the bill.

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

Floor Debate
May 21, 2019

FOLEY: LB481 advances. LB481A. Mr. Clerk.

CLERK: LB481A by Senator Stinner appropriates funds to implement LB481.

FOLEY: Senator Stinner, you're recognized to open on LB481A.

STINNER: Thank you, Mr. President. Members of the Legislature, LB481 is the A bill for-- to LB481 as amended by AM1815 to LB642, which incorporates the Brain Injury Trust Fund into LB481. As set forth in the budget and subsequent to LB481 as amended, the A bill would appropriate 500,000 from the Health Care Cash Fund beginning 2020 to '21, the second half of the biennium. With that I would ask for your green vote. Thank you, Mr. President.

FOLEY: Thank you, Senator Stinner. Is there any discussion of LB481A? I see none. Senator Stinner, you're recognized to close. He waives closing. The question for the body is the advance of LB481A to E&R Initial. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, please.

CLERK: 31 ayes, 2 nays, Mr. President, on the advancement of LB481A.

FOLEY: LB481A advances. Our next bill is LB593.

CLERK: Mr. President, Senator Wayne, I understand you wish to withdraw MO41, Senator. Thank you. Mr. President, LB593 was a bill introduced by Senator Briese relating to medical assistance recovery. (Read title.) Introduced on January 23, referred to Judiciary, advanced to General File. I do have committee amendments, Mr. President.

FOLEY: Thank you, Mr. Clerk. Senator Briese, you're recognized to open on LB593.

BRIESE: Thank you, Mr. President. Good afternoon, colleagues, here to present LB593. LB593 was result of a collaborative process between the Department of Health and Human Services and the Bar Association. The bill serves to cleanup some statutory language that is creating problems in estate administration. I'd like to thank Senator Slama for prioritizing this bill and I'd like to thank Senator Lathrop and members of the Judiciary Committee for their work on this bill and voting it out 8-0 as amended. At issue is language intended to provide the state additional layers of recourse to prevent Medicaid fraud. The statutes at issue have given rise to unintended consequences for Nebraskans affected by them and they have not resulted in significant benefit to the state. Generally Medicaid provides medical assistance to low-income Nebraskans and including seniors and nursing home care. Obviously, there are some rules involved to ensure that

Floor Debate
May 21, 2019

those with an ability to pay for their own services are not a burden on our taxpayers. In other words, to prevent folks from hiding assets or disposing of assets in order to access Medicaid coverage. And there are federal rules relative to much of this. One example is the five-year look back that provides that transfers made by individuals prior to five years before accessing care are not considered part of the patient's estate, or otherwise recoverable by the Department of Health and Human Services. A transfer made within that five-year period is considered an asset of the individual and recoverable in a Medicaid assistance reimbursement procedure. And again, this is a federal rule, federal law. And so what we're dealing with here is medical assistance reimbursement, or MAR. And this bill cleans up some problems in that area. First problem, Nebraska Revised Statute Section 68-990 currently provides for a lien in favor of the department in the event of a transfer of an interest in real estate to a related party for less than fair market value where the transfer retains an interest. This lien applies to the transferee's interest, not the transferor's interest, and this lien would then apply to a remainder interest when a life estate is held by the transferor. The original intent was to prevent someone from transferring to a child, for instance, retaining a life estate and keeping that remainder interest away from the department. It was found to be problematic as it clouded title and was serving no useful purpose as the department wasn't enforcing those liens. One concern was that the liens essentially violated federal law as a reach back prior to the federal five-year look back. Plus, title insurers were having real stress with these. They didn't expire until the death of the spouse, plus it's for an unknown amount. One testifier said that the overwhelming majority of the use of these life estates has nothing to do with Medicaid planning. This lien would come into play even if no medical assistance is involved. LB593 in Section 8 eliminates this provision. One of the second issues was another provision of statute found in Section 30-8-- excuse me, 3880 to 3882 where it provides that a trustee of a trust that has become irrevocable on death is prohibited from distributing trust property unless a waiver is obtained from DHHS. And DHHS has 60 days to grant the waiver. And this really interfered with a family's right to distribute property where medical assistance was never even used. It's also burdensome for DHHS to have to address all these requests for waivers, and it adds to the legal fees for these families. So it really is onerous and burdensome for families, and DHHS doesn't support it. And it comes into play even if no Medicaid assistance was used. And one testifier pointed out that you can't really have a refundable trust and be on Medicaid. His opinion was that the old statute deals with a problem that doesn't exist. Testimony indicated it did, quote, almost no good in collecting additional revenues for the state. LB593 eliminates that provision in Sections 2, 3, and 4. It does several other things, one of which deals with the authority of the county attorney to seek MAR recovery. Our statute currently authorizes the county attorney to do that. It's my understanding DHHS considers this contrary to federal law and part of the reason is the lack of training on the part of these attorneys. So this provision is eliminated in Section 6. Another provision, the current statute delays issuance of a certified copy of a death certificate until DHHS has done a medical assistance reimbursement search. And that's really another burden on grieving families and the bill eliminates that provision also. And it does a handful of other items that are essentially

Floor Debate
May 21, 2019

cleanup language. And I do note that the Judiciary has an amendment to the bill. Again, I note it was voted out 8-0 as amended and there was no opposition testimony. In the words of a representative from the Department of Health and Human Services, quote, the removal of these provisions will in no way hinder the ability of the Medicaid Estate Recovery Program to recover taxpayer dollars. So I would ask for your support on LB593. Thank you, Mr. President.

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

LATHROP: Thank you, Mr. President. And colleagues, good afternoon, once again. LB593 was heard by the Judiciary Committee back on February 21. And the bill and committee amendment, AM996, were both advanced on 8-0 votes. As mentioned by Senator Briese in his opening, LB593 makes several changes to the Medicaid reimbursement process. AM996 has two major components. The first is, it strikes Section 7 of the bill. This section removed language requiring less-- lessees --pardon me, leases between related parties to be commercially reasonable. With this section restored it would restrict leasing property to relatives for say, just enough to cover the taxes, in order to make the owner eligible for Medicaid assistance. The second portion rewrites current language on reimbursement when a third party is caused sickness or injury that has resulted in Medicaid coverage for the injured person. In-- pardon me, in 2006, the United States Supreme Court ruled in a case entitled Arkansas Health and Human Services v. Ahlborn, that Medicaid can only impose a lien and recover a portion of the insured's award that is related to medical damages. Accordingly, the case of only-- in the case of only a partial recovery of medical damages, a prorated portion of the award for medical damages is subject to liens and recoverable by Medicaid. Failure to make a full recovery can be a function of questionable liability or inadequate resources. The Ahlborn case was followed by another Supreme Court case in 2013, *Wos v. E.M.A.* That was decided with a similar reasoning. In that case the court said the state cannot enact a formula for determining the amount of reimbursement. In response to those two Supreme Court cases, Congress passed a provision in 2013 Budget Act that allowed recovery beyond just the medical damages. In other words, Congress attempted to abrogate those two Supreme Court cases. Last year in the 2018 Budget Act, Congress reversed course and struck the changes made in 2013. As a result, we're back to the rule established in the two Supreme Court cases of Ahlborn and Wos. The amendment codifies these two Supreme Court holdings, which are existing law, and controlling law. I would urge your adoption of AM996, and urge you to advance LB593 to Select File. Thank you, Mr. President.

FOLEY: Thank you, Senator Lathrop. Debate is now open on LB593 and the pending Judiciary Committee amendment. Senator Slama.

Floor Debate
May 21, 2019

SLAMA: Thank you, Mr. President. I wanted to rise briefly and thank Senator Briese for bringing this bill and allowing me to make it my priority bill. LB593 and the accompanying committee amendment, AM996, required many discussions to get it to where it is today. And I appreciate and wanted to thank Senator Lathrop and the Judiciary Committee staff for their extensive work on this bill. I encourage you to vote green on AM996, and green on LB593. Thank you.

FOLEY: Thank you, Senator Slama. Senator Briese.

BRIESE: Thank you, Mr. President. And I, too, support the committee amendment, AM996, and again I thank Senator Lathrop and members of the committee for their work on this. As Senator Lathrop pointed out, Section 7 eliminates provision requiring establishment of what is commercially reasonable rent of the recipients property. So if the recipient rents out their property for a third of the fair market value or little or nothing, DHHS can look to that as property of the recipient, and I can support striking this language. A rental agreement for rent that is far less than fair market value, you know, really can deprive the state of needed assets in a recovery process and it can be a workaround in efforts to circumvent provisions designed to protect the taxpayers. And as far as Section 2 of LB996 as pointed out by the Supreme Court, the Medicaid anti-lien provision prohibits the state from making a claim to any part of a Medicaid beneficiary's tort recovery not designated as payments for medical care. And the court went on to say the statute does not sanction assignment of rights to payment for anything other than medical expenses, not wages, not pain, not suffering, not inheritance. Our current statutory language of 68-919 suggests the department can recover medical assistance dollars, quote, from any amounts that the beneficiary may recover from a third party. The amendment makes clear that the department will be fully compensated only in those instances in which the beneficiary is fully compensated. And the amendment makes clear if the beneficiary is not fully compensated, the department's recovery is reduced by the same proportional amount that the recovery bears to the full compensation. In other words, the department recovery is reduced pro rata to similar to the individual's recovery. It's quite likely that the old statutory provision would be preempted by the current interpretation of the federal Medicaid anti-lien provisions. And I think that, well, in *Wos v. E.M.A.*, the court indicated states could employ mechanisms for allocating medical and nonmedical expenses provided these criteria are backed by evidence suggesting they're likely to yield reasonable results in the mind run of cases. And I think this pro rata type allocation can yield those reasonable results to ensure we don't run afoul the federal law, if someone would ever contest that. And so I think this is a needed adjustment to our current scheme and I-- again, I thank Chairman Lathrop and the committee for bringing this forward. And some might ask does any of this impair our ability to ensure taxpayer dollars are protected, and does this impair our ability to enforce medically assistance recovery any of this bill and amendment? I would say not. DHHS and policy research, they support the bill. And there's several provisions still remaining in statute to protect the taxpayers and it's simply a needed adjustment to streamline estate

Floor Debate
May 21, 2019

administration and protect families from onerous and burdensome regulations in these situations. So I would ask for your support of AM996 and underlying bill, LB593. Thank you, Mr. President.

FOLEY: Thank you, Senator Briese. Senator Lathrop, you're recognized to close on the committee amendment.

LATHROP: Thank you, Mr. President. I just want to tag on to what Senator Briese said. I think he gave a fair assessment of this amendment. The one thing I will say, having been involved in this in my other life, is that we don't always designate when you enter into a settlement which is which. And in the Ahlborn case the court talked about how that process might be undertaken either by agreement between the person that's-- the Medicaid recipient or in some kind of a court proceeding to establish what that division or what that pro rata amount would be. With that I would encourage your support of AM996 and LB593. Thank you.

FOLEY: Thank you, Senator Lathrop. Members, you heard the debate on AM996, the Judiciary Committee amendment. Those in favor of the amendment vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

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

FOLEY: AM996, the Judiciary Committee amendment is adopted. Is there any further discussion on the bill as amended? I see none. Senator Briese, you're recognized to close on the advance of the bill. He waives closing. The question for the body is the advance of LB593 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 44 ayes, 0 nays, Mr. President, on the advancement of the bill.

FOLEY: LB593 advances. Speaker Scheer, you're recognized.

SCHEER: Thank you, Mr. Lieutenant Governor. Colleagues, in relationship to what we're going to do the rest of the evening, we are now to Select File. And if there's not a lot of angst on that, I would hope to be done with that hopefully by 6:00. Other than LB209 and-- so after LB532, we will go back to Senator Groene's pull motion. There were 23 people in the queue. We will run through that queue. That will have then spent three hours of discussion on the pull motion. I think that's more than appropriate as far as making a decision on the pull after those 23 speak. If that's the case, that's about two hours and some. Hoping, if we don't break for dinner, we should

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

Floor Debate
May 21, 2019

be out of here sometime at eight or a little after would be my target, but you folks determine that ultimately. So just heads up what we're planning on doing. Thank you, Mr. President.

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

CLERK: Mr. President, bills read on Final Reading this evening were presented to the Governor. (re LR300E, LB300AE, and LB675E.) Communication from the Governor regarding the withdrawal of a gubernatorial appointment. A series of study resolutions, LR199 through LR209. Those will all be referred to the Executive Board. That's all that I have, Mr. President.

FOLEY: Thank you, Mr. Clerk. Proceeding on agenda to Select File, 2019 committee priority bills, first of which is LB511.

CLERK: LB511, I have E&R amendments, first of all.

FOLEY: Senator Howard.

HOWARD: Mr. President, I make a motion to advance LB511-- the E&R amendments to LB511.

FOLEY: Members, you heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk.

CLERK: Mr. President, Senator Brewer, I have AM1113, but I have a note you wish to withdraw.

FOLEY: Amendment withdrawn.

CLERK: Senator Ben Hansen would move to amend with AM1843.

FOLEY: Senator Ben Hansen, you're recognized to open on AM1843.

B. HANSEN: Thank you, Mr. President. I'm introducing this amendment to withdraw my LB381 from Senator Brewer's LB511 due to some discrepancies about the cost neutral nature of the bill. I would like a little more time over the interim to make sure that we are introducing a sound, fiscally-responsible bill, and I do not want this to impede the progress of the underlying bill. So, I ask you to vote green on my amendment, and green on the underlying bill. Thank you, Mr. President.

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

Floor Debate
May 21, 2019

FOLEY: Thank you, Senator Hansen. Debate is now open on LB511 and the pending amendment. Senator Brewer.

BREWER: Thank you, Mr. President, colleagues. This bill, again, just authorizes the state employees to adjust their work schedule to participate in youth mentoring programs. LB511 does not allow for paid time for the volunteer. And LB511 allows the state employees to seek approval from their supervisors for the adjusted work schedule to support youth mentoring. There should be no negative impact on productivity, or the budget, and if you're going to write the committee amendment to this bill, AM672 addressed early concerns which were prominently about the background checks that we addressed and also what approved programs there were. Thank you, Mr. President.

FOLEY: Thank you, Senator Brewer. Is there any further discussion on the amendment? I see none. Senator Ben Hansen, you're recognized to close on the amendment. He waives closing. The question for the body is the adoption of AM1843. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 35 ayes, 1 nay, Mr. President, on the adoption of Senator Hansen's amendment.

FOLEY: AM1843 is adopted. Mr. Clerk.

CLERK: Nothing further on the bill, Mr. President.

FOLEY: Senator Howard.

HOWARD: I move to advance LB511 to E&R for engrossing.

FOLEY: Members, you heard the motion to advance LB511 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB511 advances. Our next bill is LB334.

CLERK: LB334, Senator, I have E&R amendments pending.

FOLEY: Senator Howard.

HOWARD: I move to adopt the E&R amendments to LB334.

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

Floor Debate
May 21, 2019

FOLEY: The motion is to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted.

CLERK: Mr. President, Senator Linehan, would move to amend with AM1283.

FOLEY: Senator Linehan, you're recognized to open on AM1283.

LINEHAN: Thank you, Mr. President. AM1283 adds a new section to LB334. The new section specifically states the intent of the Legislature regarding the elimination of the funding for the Angel Investment Tax Credit Act. The amendment states that 4 million saved by eliminating the Angel Investment Tax Credit Act will be used to increase the appropriations to the military department for the Governor's Emergency Program for fiscal year 2020, '20-21. On page 11, line 31, the fiscal year is changed from '20-21 to '21-22. This amendment is brought to provide additional disaster relief due to the flooding this spring. Thank you, and I will try answer any questions.

FOLEY: Thank you, Senator Linehan. Is there any discussion of the amendment? I see none. Senator Linehan, you're recognized to close on your amendment. She waives closing. The question for the body is the adoption of AM1283. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 37 ayes, 0 nays, Mr. President, on the adoption of Senator Linehan's amendment.

FOLEY: AM1283 is adopted.

CLERK: Nothing further on the bill, Mr. President.

FOLEY: Senator Howard.

HOWARD: I move to advance LB334 to E&R for engrossing.

FOLEY: Members, you heard the motion to advance LB334 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB334 advances. Next bill is LB334A.

CLERK: LB334A, no E&Rs. Senator Linehan, AM1281.

FOLEY: Senator Linehan, you're recognized to open on AM1281.

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

Floor Debate
May 21, 2019

LINEHAN: I'm sorry, I was confused. Excuse me. I'm trying to move along here. Thank you, Mr. President. With amendments we adopted in LB334 we also need to adopt the amendment to LB334A. On page 2, line 11 of AM1281, we need to strike the Department of Economic Development Program 603 and insert Military Department Program 192. Additional language is added to indicate expenditures from this program shall not be restricted to state aid if other expenditures are necessary to fulfill the goals of the Governor's Emergency Program. This additional language was recommended by the legislative Fiscal Office. Thank you.

FOLEY: Thank you, Senator Linehan. Is there any discussion on the amendment? I see none. Senator Linehan, you're recognized to close. She waives closing. The question for the body is the adoption of AM1281. Those in favor vote aye; those opposed vote nay. Record, please.

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of Senator Linehan's amendment.

FOLEY: AM1281 is adopted.

CLERK: I have nothing further on the bill.

FOLEY: Senator Howard.

HOWARD: I move to advance LB334A to E&R for engrossing.

FOLEY: Members, you heard the motion to advance LB334A to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB334A advances. Proceeding to LB468.

CLERK: LB468, Senator, I have E&R amendments, first of all.

FOLEY: Senator Howard.

HOWARD: I move to advance the E&R amendments to LB468.

FOLEY: The motion is to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted.

CLERK: Senator Bolz, AM1678.

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

Floor Debate
May 21, 2019

FOLEY: Senator Bolz, you're recognized to open on AM1678.

BOLZ: Thank you, Mr. President. Between General and Select File, a new issue was brought to my attention by the Department of Health and Human Services that in respect to Senator Walz and the department, I would like to remove the language regarding the family finding and address that next year. Senator Walz's underlying bill is the priority and I will take that time over the interim to sort things out. If you support LB468, which I do, and you should too, please vote to advance the amendment as well. I won't take any further time unless someone has a question for me. This is, I think, trying to support the Walz bill and to work in good faith with the Department of Health and Human Services. Thank you, Mr. President.

FOLEY: Thank you, Senator Bolz. Is there any debate on AM1678? I see none. Senator Bolz, you're recognized to close. She waives closing. The question for the body is the adoption of AM1678. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

CLERK: 35 ayes, 0 nays on adoption of Senator Bolz's amendment.

FOLEY: AM1678 is adopted.

CLERK: Senator Crawford would move to amend, AM1855.

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

CRAWFORD: Thank you, Mr. President, and good evening, colleagues. AM1855 includes the original language of LB566 advanced from the Executive Committee with all positive votes from those present. LB566 requires a notification and a legislative hearing if the administration submits a 1332 waiver to the centers for Medicare and Medicaid services. AM1855 also includes an amendment to LB566 that was worked out by Senator Morfeld and Senator Hilgers and was run by PRO. This is in Section 8 of the bill. This requires notification and a legislative hearing when the administration submits an 1115 waiver to the federal centers for Medicaid and Medicare services during public comment period for that waiver. I discussed this process with the Speaker and he agreed it would be acceptable to bring this as a single amendment to LB468. Thank you, Mr. President.

FOLEY: Thank you, Senator Crawford. Debate on the amendment. Senator Arch.

ARCH: Thank you, Mr. Speaker. I was just wanting to comment on this particular amendment because the two different waivers here, the demonstration waiver of Section 1115, and the

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

Floor Debate
May 21, 2019

innovation waiver of Section 1332 slightly different. And as I understand it that in the 1115-- in the 1115 demonstration project waiver there's actually CFR that requires a public hearing, whereas in the 1332 does not require a public hearing, and I guess I just wanted to confirm that. And Senator Crawford, do you-- can you confirm that? Is that your--

FOLEY: Senator Crawford, would you yield, please?

ARCH: I'm sorry, Senator Howard.

FOLEY: Senator Howard, would you yield, please?

HOWARD: Thank you, Mr. President. Yes, so the CFR for the 1115 waiver recommends that, a legislative public hearing. The CFR for 1332 is silent on that point, but the Exec Board voted out LB566 with the 1332 public hearing.

ARCH: And the language here says that in the 1115 it's during the period for public comment, so there's a process there. In the 1332, would that prevent the submission of the 1332? Is it prior to submission of the 1332, or is it just-- it's silent on that as well?

HOWARD: It's silent on the 1332, and that was the agreed upon amendment out of the Exec Board.

ARCH: OK. All right. Thank you very much.

FOLEY: Thank you, Senators. Senator Ben Hansen.

B. HANSEN: Thank you, Mr. President. I just want to reiterate the importance of LB468 and the importance that it is not just to make sure that things are done right, but more for long-term healthcare facilities to make sure that the rollout of the managed care organization is taking over, long-term healthcare facilities in the state of Nebraska is done right. I think it's one of the reasons that we decided to push back the date to 2021 is to make sure that-- and this is something I mentioned before. A lot of the hospitals or the larger healthcare organizations when they had to rollout the MCOs, I think were a little bit more financially stable and a little more able to handle some of the problems that we had with the rollout when MCOs took over. And I think-- which would be like delayed payments, and I think our long-term healthcare facilities-- this is a lot of the feedback that I got back from my district, which I'm sure some of you have had as well in this bill, is that they are not as financially able to take a lot of the problems that might happen with the rollout, such as delayed payments, such as inequities in payment. They are running in a

Floor Debate
May 21, 2019

very tight budget, a very thin line, and any kind of disruption to their budget could result in the closing of facilities based on just this rollout. So I want to make sure that things are done right, and with the rollout of Medicaid expansion, along with other things, I think the MCOs and HHS already have their hands full on trying to get a lot of those things figured out. So I think LB468 is a good bill to make sure that things are done appropriately to protect our long-term healthcare facilities, make sure things are done right. And so, I just encourage the green vote on LB468. Thank you, Mr. President.

FOLEY: Thank you, Senator Hansen. Senator Hilgers.

HILGERS: Thank you, Mr. President. Good evening, colleagues. I rise in support of AM1855, echoing largely the comments that Senator Crawford mentioned. The second part of this bill is identical to the bill that we amended version of the bill that Senator Crawford introduced in front of the Executive Board, and that we passed out unanimously from the Executive Board. And then the second part is modeled similarly. The 1332 process in the first section is a little bit different from the 1115, and I defer largely to Senator Howard's expertise in that particular area, but the goal of the first section is to mimic what we're accomplishing in the second section. So the second section, which we passed out of the Exec Board, the purpose of that is to ensure that as these waivers are applied for, that the Legislature just simply gets notice and that the Legislature then holds a hearing based on that notice. It's meant to work in parallel with the process and not create any or put any specific conditions on the administration for when they provide those applications, but to allow the Legislature to have notice and then have a hearing. Similarly, we try to build in a similar structure with the 1332 process because that has a different notice and comment period. What we try to do is build that notice that the Legislature receives within that notice and comment period. So in other words it's meant to sort of work in parallel consistent with harmonious with the process as I understand it currently works. And so, I do support the amendment. I appreciate the work that Senator Howard has done, Senator Morfeld, Senator Crawford, and I would urge your vote on AM1855. Thank you, Mr. President.

FOLEY: Thank you, Senator Hilgers. Senator Crawford, you're recognized to close on your amendment.

CRAWFORD: Thank you, Mr. President, and I appreciate the support of words by my colleagues. I urge your green vote on AM1855. Thank you.

FOLEY: Thank you, Senator Crawford. The question for the body is the adoption of AM1855. Those in favor vote aye; those opposed vote nay. Record, please.

CLERK: 31 ayes, 0 nays on adoption of Senator Crawford's amendment.

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

Floor Debate
May 21, 2019

FOLEY: AM1855 is adopted. Mr. Clerk.

CLERK: Nothing further on the bill, Mr. President.

FOLEY: Senator Howard.

HOWARD: I move to advance LB468 to E&R for engrossing.

FOLEY: Members, you heard the motion to advance LB468 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB468 advances. Next bill is LB686.

CLERK: LB686, Senator, I have E&R amendments, first of all.

FOLEY: Senator Howard.

HOWARD: I move to adopt the E&R amendments to LB686.

FOLEY: The motion is to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk.

CLERK: Senator Lathrop would move to amend, AM1902.

FOLEY: Senator Lathrop, you're recognized to open on AM1902.

LATHROP: Thank you, Mr. President. Colleagues, good evening once again. AM1902 contains changes to LB686, which was amended by AM1737, based on feedbacks from the courts, the Department of Health and Human Services, and the Department of Correctional Services. The underlying policies in the bill are still included, but the amendment makes some changes related to the implementation of these policies. Section 3 contains the new offense of bringing a cell phone into a Correction facility. AM1902 would add a new exception to allow the Director of Correctional Services to permit certain people, such as staff, to bring electronic communication devices into the facility. Section 5 is related to restoring competency to defendants that are found incompetent to stand trial. Under the amendment, the section will become operative July 1, 2021, to give the Department of Health and Human Services additional time to develop a network of private providers and facilities. The changes to post-release supervision are clarified in Section 8 to ensure that offenders receive credit for time served in jail on custodial sanctions. This change will avoid an ambiguity and avoid unnecessary litigation to settle this issue, a point brought to us

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

Floor Debate
May 21, 2019

by the district court judges. The process of deferred judgments in the committee amendment is streamlined and included in Section 9. The process in AM1902 is simplified and more closely resembles the current process judges use to put a defendant on probation. In Section 13 the operative date of the prohibition on placing vulnerable populations into restrictive housing is moved from October 1 of '19 to March 1 of 2020. In Section 14, the voting members of the long-term restrictive housing work group would continue to be appointed by the Governor. AM1902 resolves any implementation concerns that have been raised and should eliminate any fiscal impact in this biennium. Colleagues, I'm happy to answer any questions. I do want to talk about the deferred judgment piece, if I might. This deferred judgment is going to be an important tool for the courts in imposing sentences on defendants that have been convicted of-- or have been found guilty of, rather, certain offenses. The criteria for placing someone on probation resembles or matches the criteria used to put somebody on probation. We're not going to see people charged with murder placed on deferred judgment. Nor do I expect that this will impair in any way the good work and the important work of the specialty or problem-solving courts. If I thought that were the case, I certainly wouldn't be doing this. I would encourage your support of AM1902 to LB686. I'm happy to answer any questions relative to the bill or the amendment. And with that, I would encourage your support. Thank you.

FOLEY: Thank you, Senator Lathrop. Debate on AM1902. Senator La Grone.

LA GRONE: Thank you, Mr. President. With AM1902, I am in support of LB686. I want to thank Senator Lathrop for being willing to work with myself and Senator Hilgers to make this bill workable for everyone. And also Senator Vargas, and Senator Wayne, and Senator DeBoer as well. There is-- I did want to put on the record one thing that I'm going to be working with Senator Wayne on over the interim and into next year is a deferred judgment piece as it relates to exactly what crimes it relates to. But we didn't have enough time to look into that for this bill, but it is something that Senator Wayne and I both agreed to look into for a fix to it next year. So with that, I would encourage your support of AM1902 and I'll yield the remainder of my time to Senator Hilgers.

FOLEY: Thank you, Senator La Grone. Senator Hilgers, you've been yielded 4:00.

HILGERS: Thank you, Mr. President, and thank you, Senator La Grone. I want to echo what he said with Senator Lathrop and the work he's done working with us, Senator DeBoer and others working on this amendment to try to address some of the concerns. I just wanted to put on the record, and I told this to Senator Lathrop before this bill came up that my understanding of the restricted housing piece in particular, I had some individuals in my district contact me over the last couple days sort of suggesting or asking, does this mean that everyone in restrictive housing is going to be put into the general population. And the answer to that question is, that is not my

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

Floor Debate
May 21, 2019

understanding of what's going to happen with the March date in this amendment. That will give the Corrections enough time to be able to have some alternative means of addressing that particular population. And so what it didn't mean is just that you're going to eliminate restrictive housing and then just have everyone in general population, this gives the appropriate runway so that the Corrections-- the Department of Corrections have the tools that they need to be able to address that population. And so in that way, I thought it was a sober and responsible response. And so I do support the amendment, I do support the underlying bill, and I appreciate all the various stakeholders working on this bill. Thank you, Mr. President.

FOLEY: Thank you, Senator Hilgers. I see no further discussion. Senator Lathrop, you're recognized to close on AM1902.

LATHROP: Thank you, Mr. President. Colleagues, we're doing important stuff here. This deferred judgment is going to be an important tool for judges in sentencing, those that have been found guilty of criminal offenses. The criteria has been simplified and the process simplified as well to accommodate concerns expressed by several members of the Judiciary. And the work on placing vulnerable populations in restrictive housing, while this is going to -- this is a small step in the right direction in addressing difficulties that the state is experiencing with restrictive housing and I'm looking forward to this bill being passed and vulnerable populations no longer being subject to restrictive housing in this state. And with that, I would encourage your support of AM1902.

FOLEY: Thank you, Senator Lathrop. Members, you heard the debate on AM1902. The question for the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 35 ayes, 0 nays on adoption of Senator Lathrop's amendment.

FOLEY: AM1902 is adopted.

CLERK: I have nothing further on the bill.

FOLEY: Senator Howard.

HOWARD: I move to advance LB686 to E&R for engrossing.

FOLEY: The motion is to advance the bill. Those in favor say aye. Those opposed say nay.
LB686 advances. LB686A.

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

Floor Debate
May 21, 2019

CLERK: I have no amendments to LB686A, Senator.

FOLEY: Senator Howard for a motion.

HOWARD: I move to advance LB686A to E&R for engrossing.

FOLEY: Motion is to advance the bill. Those in favor say aye. Those opposed say nay. LB686A advances. Proceeding to LB690.

CLERK: LB690, I have E&R amendments, first of all, Senator.

FOLEY: Senator Howard.

HOWARD: I move to adopt the E&R amendments to LB690.

FOLEY: The motion is to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk.

CLERK: Senator Cavanaugh would move to amend, AM1919.

FOLEY: Senator Cavanaugh, you're recognized to open on AM1919.

CAVANAUGH: Thank you, Mr. Lieutenant Governor. AM1919 is a technical amendment to clarify how the Corrections Department shall communicate with the medical facilities or those that are dealing with the pregnant inmate who is being transferred. Just a reminder that LB690 is the Healthy Pregnancies for Incarcerated Women's bill, and this technical amendment is just a couple of sentences that clarifies how the communication will happen as to why an individual has been restrained when restraints are used. And with that, I encourage everyone's green vote.

FOLEY: Thank you, Senator Cavanaugh. Is there any discussion of the amendment? I see none. Senator Cavanaugh, you're recognized to close. She waives closing. The question for the body is adoption of AM1919. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Cavanaugh's amendment.

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

Floor Debate
May 21, 2019

FOLEY: AM1919 is adopted. Mr. Clerk.

CLERK: Nothing further, Mr. President.

FOLEY: Senator Howard.

HOWARD: I move to advance LB690 to E&R for engrossing.

FOLEY: Motion is to advance the bill. Those in favor say aye. Those opposed say nay. LB690 advances. Proceeding to LB512.

CLERK: I have E&R amendments, first of all, Senator.

FOLEY: Senator Howard.

HOWARD: I move to adopt the E&R amendments to LB512.

FOLEY: The motion is adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk.

CLERK: Senator Erdman would move to amend, AM1755.

FOLEY: Senator Erdman, you're recognized to open on AM1755.

ERDMAN: Thank you, Lieutenant Governor. I want to start out by thanking Senator Linehan and the Revenue Committee for allowing me to attach this to their bill. I want to thank the NACO people, John and Larry, for working on this and bringing these amendments back. But I'd be remiss if I didn't say thank you to Senator Chambers for his guidance when he sent this to the Attorney General's Office for his opinion on the constitutionality of this. This amendment has changed some since we last voted on it, and I want to walk through those changes. It is exactly what I think we need to do to make it constitutional. One of the provisions that the Attorney General said, the language should be added that excluded destroyed property from the January 1 assessment and that's what it does on the first page of 1755. It says unless the property is destroyed, real property as defined in Section 15 of this act, in which case the assessed value of destroyed real property shall be adjusted as provided in 15 through 17-- Sections 15 through 17. So that's exactly what we're doing, and so then if you turn the page and look at the second page, it gives a description of what destroyed property is, and we have described those. And then we

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

Floor Debate
May 21, 2019

went into defining how much damage must be sustained by a property before it is declared destroyed. And so what will happen, let me give you an example. Let's say that Senator Hunt has a home and the house is flooded, and it has a 20 percent damage, the house is unlivable. It's been determined that it's uninhabitable. The county assessor will come and assess the property and make a determination if that is a fact, and then that property will have that assessed value for that year. And so, as I wanted to do earlier, I wanted to make it so that it would be a zero. That's not constitutional according to what the Attorney General said, so what will happen is the property will be reassessed on the date of destruction and then that will be the present assessment for that year only. And so that's the change that we made to make that part constitutional. The other issue that we had was, I wanted to make it up until October 1, but because of the time of filing and for the time of setting the mill levies, that was not appropriate for the counties to accomplish that, so we changed the date to July 1. So any property destroyed between January 1st and July 1 will be eligible, and after July 1 they will pay for the whole year. So those were the changes that we made to this. I appreciate working this through. It's been a long time. It's been an arduous process. When I visited with Senator Chambers after he read into the record the Attorney General's Opinion, he said this was a very complicated bill. I knew that it was, but I wanted to make sure that it was constitutional when we passed it and so that's what we've done. And so, if there's any questions I'll try to answer those, but it's a very straightforward bill that will help alleviate some property tax problems for those people who have destroyed property. Thank you.

FOLEY: Thank you, Senator Erdman. Is there any discussion of the amendment? I see none. Senator Erdman, you're recognized to close on your amendment. He waives closing. The question for the body is adoption of AM1755. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

CLERK: 34 ayes, 0 nays on adoption of Senator Erdman's amendment.

FOLEY: AM1755 is adopted.

CLERK: I have nothing further on the bill.

FOLEY: Senator Howard.

HOWARD: I advance LB512 to E&R for engrossing.

FOLEY: The motion is to advance the bill. Those in favor say aye. Those opposed say nay. LB512 advances. Proceeding to LB610.

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

Floor Debate
May 21, 2019

CLERK: LB610, I have E&R amendments, first of all, Senator.

FOLEY: Senator Howard.

HOWARD: I move to adopt the E&R amendments to LB610.

FOLEY: The motion is to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. E&R amendments are adopted. Mr. Clerk.

CLERK: Mr. President, Senator Wishart had AM1554. I understand that's to be withdrawn. Senator Wishart would move to amend with AM1771.

FOLEY: Senator Wishart, you're recognized to open on AM1771.

WISHART: Thank you, Mr. President. This amendment incorporates Senator Linehan's Meadowlark Scholarship Act into LB610. The Meadowlark Scholarship Act ensures that any child born in the state of Nebraska will have a NEST 529 account opened in their name by the State Treasurer. Senator Linehan can go into more details on the specifics of that bill. As a quick reminder, already in LB610 we have Senator Lindstrom's employer matching contribution plan and my low-income matching scholarship program. Together these bills combined are moving Nebraska toward being one of the most competitive and supportive states for 529 college savings. This amendment also includes changes brought to us by Senator Patty Pansing Brooks to ensure that these funds will only be used for college savings. I would like to thank her for her due diligence on working with us on this bill, and I will yield the rest of my time to her so she can discuss her additions to LB610.

FOLEY: Thank you, Senator Wishart. Senator Pansing Brooks, you're recognized for 9:00.

PANSING BROOKS: Thank you, Mr. Lieutenant Governor. Thank you, Senator Wishart. I'd like to thank Senator Wishart, Senator Lindstrom, and Senator Linehan for working with me on this. I do want to get some things on the record, so I may-- I may be able to get it done in this nine minutes, so I'm going to try. I am not filibustering this bill or extending the debate on it. I am merely trying to get some things on the record. I wanted to talk through the amendment just a little bit. I will be voting for the amendment and the underlying bill. So I-- I just want to be clear on General File I had a number of concerns and mentioned them in the Education Committee, raised issues about funding for K-12 private education, and-- and on General Fund [SIC] I specifically asked Senators Wishart, Lindstrom, La Grone, Linehan, and they all agreed that the intent of these bills was not to use it for K-12 private education. Since General File, I have found

Floor Debate
May 21, 2019

significant information. I spent two weekends. We created flowcharts on this whole thing. Part of a summary of the flowchart is before you. I'm sorry, I had it passed out once before, but I wanted to refer to it and I don't think some of you have it still on your desk. First, we found that there is-- there was other legislation that relates to these 529s that no one mentioned, no one understood related to the 529s, and no one discussed, and I have talked to both-- we-- we have passed these bills. One is LB406. Senator Gragert, I have talked to him about this. It is the Unclaimed Escheat Fund-- Escheat Fund, and what-- what that fund used to do, it used to be a life insurance demutualization trust fund, and so the money from the county courts and the money from the district courts that come in on claims would go to this fund. Now we're raising the access to the money in that fund from \$500,000 to \$1 million. That-- that money comes from abandoned property and from-- from cases, and it is now going to be used to pay off abandoned property first; second, funding the employer and low-income-matching programs of Senator Wishart and Senator Lindstrom, and then operating the Escheat Fund, and it's in this order. And then finally it's going to pay the Permanent School Fund, so basically we're taking money out of the K-12 school fund to pay for postsecondary. I went through all the hearings and I went through all the discussions on the floor and read everything. There was no mention of the 529s and the fact that the Escheat Fund is going to be used in this bill with these funds. I-- I don't have a major problem with it. And I've talked to the counties; the counties didn't have any idea this was happening either. This was a very complicated effort of about seven bills where we didn't realize how they all tied together, and maybe that's fine. I-- I don't feel comfortable voting on bills that I don't realize are tied together and making changes to things and relating off of one another. Senator Gragert was-- was told that this was basically just a technical change. Well, it's a technical change that's going to affect these 529s. So then secondly, Senator Stinner's bill, LB52, again a "technical change," it-- it's on page 6 of my flowchart. It eliminates the Legislature's ability to transfer funds from the Expense Fund to the General Fund. That may be fine. Senator Stinner is OK with that. I've talked to him. But again, it's all related to these 529s, and there was no discussion of it in committee or on the floor. So it's for investment purposes, expenses now. Previously it was for investment expenses and not for programming. Now it's going to be used for programming. Again, that may be something we're OK with, but where was the discussion on that so we could understand the full scope of what was happening in this? It gives broad and expansive powers to the Treasurer to-- to use and manage the funds. So my question is, on some of these, why not the Department of Education? Why not give that money to the Nebraska Opportunity Grant Fund which goes to all schools, public and private? I-- I just-- I don't get why this is necessary to put it all in the Treasurer's hands. Next I want to talk about the federal changes, and no one, not one of these really has talked about the federal changes that have occurred that make this a big deal. So if you look at page 1 of my outline, it shows the qualified higher education expenses definition, and both 25 IRC 529(c)(5) and-- and Nebraska Revised Statute 85-1802, subsection (4) are the same under eligible education institution. You get to the qualified higher education expenses, and 26 IRC 529(e)(3) is similar to Nebraska Revised Statute 85-1802, but the federal version has been amended in 2017 and-- and in that one,

Floor Debate
May 21, 2019

in 2017, the federal government has decided that any reference in this subject-- in this subsection to the term "qualified higher education expense" shall include a reference to expenses for tuition in connection with enrollment at elementary or secondary public, private, or religious schools. So people thought I was crazy last time. I had people saying, oh, she's making this up, there's no connection to this. Look at the direct connection. So the only difference is that Nebraska Revised Statute 85-1802, subsection (1) has not amended that quote that the tuition may be used for-- at an elementary or secondary public, private, or religious school. And what I was concerned about, and talked to Senator Wishart and Senator Lindstrom about, is it could very easily be done in the-- in the scope of everything that's going on by just saying-- referring to subsection-- or just saying, as-- as happens in-- in Section 529. And it could just be a very innocuous amendment. So what you will see in the amendment that we've brought, we've put not for K-12 private schools, and that's because it will be much harder for-- if-- if the next Legislatures want to take a that out and start funding the private schools, it's going to have to cross out that language, and so people will recognize that's what we're doing, rather than just some reference to a federal-- federal law. So again, it is an easy amendment to change this. I also wanted you to look at page 6, 3, 4, and 5 on-- of my flowchart if you want to. Sorry it's handwritten, but its been wild. Anyway, that-- page 6 talks about the fact that-- how the infrastructure is being developed and the need for additional amendments, and so again, it's an easy amendment to just add "as provided in 26 Internal Revenue Code 529" due to the federal changes this year. But again, none of this was mentioned in any of the hearings. It's pretty clear, I think, that the national intent-- I-- I did distribute an article with the Washington Post article and a Heritage Foundation article saying this was the goal. And as you remember, I also passed out, before we adjourned a couple weeks ago, that-- a picture of the Treasurer's Web site where he-- he-- where it said the goal is to work on this to-- to get K-12 funding-- time? Oh, I'm sorry-- to get K-12 funding. The response was that was never intended but it's been up since he was elected. And again, people-- people-- he has taken it down since, but that was on the Web site and I believe part of the plan. But I will continue to be a watchdog of diverting public dollars to private schools. I think the private schools do add value to our state and to our economy and to our children.

FOLEY: That's time. That's-- that's now time.

PANSING BROOKS: I'm sorry. OK.

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

LINEHAN: Did you call me?

FOLEY: You're in the queue.

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

Floor Debate
May 21, 2019

LINEHAN: Thank you, Mr. President. I would like to thank the Treasurer and all the people that have worked on this bill. I'll go back to my original-- kind of my part of the bill. Every kid that's born in Nebraska will have a college savings account set up in their name. And studies have shown, and this is just-- if you think about it, it makes common sense that if a child has a savings account in their name that's for college, they will think they're going to college. And when you think you're going to college and that's in your future, it gives you hope. And I-- I don't know a more important thing for a youngster to have, and for their parents to have, than hope for their future. These accounts are used widely by people of wealth, the people who have tax problems, people who have enough money to think down in the future. They are not widely used by people who can't figure out how to pay next month's mortgage if they're lucky enough to have a mortgage, or next month's rent if they're not. I-- I just-- I think it's a pretty simple and very, very important piece of legislation, and I'm very proud to be from a state that is putting this first and foremost about children, young students' future, and their ability to go to college. And with that, I would yield any remaining time to either Senator Wishart or to Senator Lindstrom.

FOLEY: Senator Wishart, if you're on the floor--

LINEHAN: Senator Lindstrom I think waived.

FOLEY: Senator Lindstrom, 3:00.

LINDSTROM: [LAUGH] Thank you, Senator Linehan. I do want to thank everyone involved in this, the Treasurer and Senator Pansing Brooks, working through this. And I want to get this on the record because we've talked about it-- talked about it and it is in here probably five or six different times, but these new programs are not to be used for K-12 education. This is strictly for higher education purposes. And like I've said before, the intent all along was-- was for this. With regards to the Web site, I believe that was-- that was originally up when Don Stenberg was the Treasurer, so I just don't think Treasurer Murante got around to changing that in a timely manner. But I do appreciate it. And-- and if Senator Pansing Brooks wants to get other things on the record, I'd be more than happy to answer it. But I do appreciate all the work that's been done and would urge your support of the underlying amendment and LB610. Thank you, Mr. President.

FOLEY: Thank you, Senator Lindstrom. Senator Pansing Brooks, you're recognized.

PANSING BROOKS: Oh, thank you, Mr. Lieutenant Governor, and thank you, Senator Lindstrom, for working on this. So again, I was talking about how I intend to continue to be the watchdog on public money to private schools, and meanwhile I know that my friend and colleague Senator Linehan is-- is-- is pretty adamant about helping the-- the private schools. And what-- what I would say to that is that, you know, our-- our daughter went to a private school and

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

Floor Debate
May 21, 2019

we're-- we're so proud of her. She just graduated, and we're really excited about that. But I-- I don't think that the state should be-- even though I'm a taxpayer, the state shouldn't be using its money to help pay for my child to go to school because I'm choosing to take them out of state. And that's-- that's choice. I guess if we're all into choice, that is a choice. So I don't know where we set the-- where we set the barrier or where we set the limits. I did-- I never thought that the state should be helping to pay for my child to go out-- outside the state to a private school. Another concern is, of course, and it-- and it isn't just that, it's the fact that the private schools that we've dealt with do not want to have any kind of authority or review by the Department of Education, so they're not willing to have-- to meet the same requirements and regulations as-- as the public schools. That's very concerning to me. One other concern that's of-- that is also concerning is in the bill there's an employer tax credit of-- at 25 percent. The Earned Income Tax Credit that we're trying to get for people who are poor and have-- and struggling, that's-- we're trying-- it-- we're-- we're-- we're being told that we better be happy with a-- moving it from 10 to 13 percent, 10 to 13 percent, but the employer tax credit is at 25 percent. The added protections that clarify the funds and programs are to make sure that it cannot be used for K-- for K-12, and I really appreciate Senator Lindstrom-- Lindstrom and Wishart for-- for helping me to assure that that is not happening. I feel like this is-- there has been a lack of some transparency in the production of all of these bills. It took seven bills to do this and people were not aware of what was happening. To me, that's a lack of transparency that's being foisted upon our body. I don't like it. I don't. I want to be told what we're voting on and why and what it relates to. I got into the whole thing and-- and looking it up and going, where in the heck is the Escheat Fund? And so we're looking it up and finally Google it and there it is. We've passed it under Senator Gragert's bill. Well, that's not open, transparent government, friends. So these are complex funding mechanisms. It's systematically done through a host of bills. It's unprecedented. We've never had this kind of thing before on a very complicated issue. And I've been-- I've gotten a little push back as I've brought this amendment saying, well, it's-- you're-- you're being redundant be-- by putting K-12 in about six or seven different places. Yeah, I'm purposefully and intentionally being redundant because I want people to have to strike that language so the Legislature in the future knows what-- what's happening so it isn't just a little reference to a federal law and everybody goes, OK, well, that looks good. I purposefully want it to say K-12 so we are striking it so that if somebody decides at some point to use this for private education, that we all know it and that we can deal with-- with it front, head-on, because this has not been, in my opinion, not-- not due to the senators--

FOLEY: One minute.

PANSING BROOKS: --not due to-- I-- I don't know what it is. But to have seven bills, two of which passed without a reference to 529s and yet they're totally mentioned within this bill, that's not being forthright or transparent. Thank you, and I will vote for AM1771 and Senator Lindstrom's LB610. Thank you.

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

Floor Debate
May 21, 2019

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

GROENE: Thank you. Two of the bills came out of our committee, Education Committee. LB544, it came out 5-2-1. That was Senator Linehan's Meadowlark Scholarship. And then Senator Wishart's bill came-- also came out of committee. It was-- as you can see, there was a conservative and a-- and a-- the other side that came out of our committee, two bills. We thought they were good bills and they came out. This is a good plan, folks. This is private money. It has nothing to do with government tax dollars once-- it's private individuals wanting to help poor kids. I'm glad Senator Pansing Brooks is in the financial situation that she can send her children to a private college outside of the state because the American dream, she's lived it, her and her husband. But there's a lot of people still trying to achieve the American dream and they're poor and their bright young kids hit a wall when they get to be in high school and realize they can't go to that college they want to because they don't have the financial means. What LB610 does is give them hope. And people who have achieved the American dream can donate money to these funds to help these kids. They can leave a legacy. There's no conspiracy here. This is good, commonsense government. This is helping kids who find themselves in financial straits because of no-- nothing they did on their own or their family's fault, but they want to live the American dream and achieve that through college education. This is good. This makes me glad I'm here, bills like LB610, because that's why I came here. Thank you.

FOLEY: Thank you, Senator Groene. Further discussion on the amendment? I see none. Senator Wishart, you're recognized to close on AM1771.

WISHART: Thank you, Mr. President. I just wanted to again thank Senator Patty Pansing Brooks for being a watchdog on this issue and-- and working with us. Again, I want to thank Senator Lindstrom and Senator Linehan for working with me. Passing these bills will make us the most competitive state for college savings. We talk all the time about the importance of financial literacy. This is a great opportunity for us to build a system that supports young kids and their families saving for college. So thank you again, and I please encourage you to vote green on AM1771 and LB610.

FOLEY: Thank you, Senator Wishart. The question before the body is the adoption of AM1771. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

CLERK: 45 ayes, 0 nays on the adoption of the amendment.

FOLEY: AM1771 is adopted. Further discussion on the bill, Senator Ben Hansen. He waives the opportunity. Mr. Clerk.

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

Floor Debate
May 21, 2019

CLERK: I have nothing further, Mr. President.

FOLEY: Senator Howard.

HOWARD: I move to advance LB610 to E&R for engrossing.

FOLEY: Motion is to advance the bill. Those in favor say aye. Those opposed say nay. LB610 advances. Proceeding to LB610A.

CLERK: I have no amendments to the bill.

FOLEY: Senator Slama for a motion.

SLAMA: Mr. President, I move that LB610A be advanced to E&R for engrossing.

FOLEY: The motion is to advance LB610A to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB610A advances. LB443.

CLERK: LB433. I have E&R amendments, first of all.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that the E&R amendments to LB433 be adopted.

FOLEY: Motion is to adopt the E&R amendments. Debatable motion. Senator La Grone.

LA GRONE: Thank you, Mr. President. I just wanted to rise and thank-- Senator Hansen would yield to a question.

FOLEY: Senator Matt Hansen, would you yield, please?

M. HANSEN: Yes.

LA GRONE: Am I mistaken, is there an amendment on this bill?

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

Floor Debate
May 21, 2019

M. HANSEN: Following the E&R amendments, yes.

LA GRONE: I'll wait until then. Thank you, Mr. President.

FOLEY: Thank you, Senator La Grone. Senator Ben Hansen.

B. HANSEN: Thank you, Mr. President. Now I feel like I should wait, but I'm not gonna. But I do have a couple questions for Senator Hansen if he would yield, please? Senator Matt Hansen.

FOLEY: Senator Matt Hansen, would you yield, please?

M. HANSEN: Yes.

B. HANSEN: OK. Just a couple of questions for myself after reading through the bill and maybe even a couple of questions in particular. I just want to make sure I get my thoughts clear on this bill. So how does the change from a three-day notice to a seven-day notice affect the court dates in expediency of a eviction process for nonpayment of rent?

M. HANSEN: It does not change any of the other time lines for court dates such that the court dates would still be required to have 10 to 14 days following the notice.

B. HANSEN: OK. And so currently by the time an eviction notice is served, the court process takes place and a tenant vacates the property. The time line can result in landlords being out of a minimum of two months rent. How will this extension of the notice for nonpayment of rent not result in landlords being out three months' rent?

M. HANSEN: Uh-- so under the current time line there is-- we kept it, designed it so it actually is still possible within one month's rent under my understanding of all the time lines of the landlord's going over into two months, it's because they delayed the initial notice. If the landlord provides the initial notice the day that rent is late, they could still get the unit evicted and cleared by the sheriff within the 30 days.

B. HANSEN: OK. And just one more question. So I see that the remaining security deposit, if a landlord is unable to locate the tenant, is to be remitted to the State Treasurer?

M. HANSEN: Yes.

Floor Debate
May 21, 2019

B. HANSEN: What happens to the unclaimed funds if they are never reclaimed?

M. HANSEN: Uh, they're-- they stay with the State Treasurer pursuant to all the other regulations of the Unclaimed Property Act. And I apologize, I can't tell you off the top of my head what the Unclaimed Property Act ends them with.

B. HANSEN: OK. All right, thank you. Appreciate it.

FOLEY: Thank you, Senators. Senator Pansing Brooks.

PANSING BROOKS: I'm waiving right now, thank you.

FOLEY: She waives the opportunity. The question for the body is the adoption of E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk.

CLERK: Senator Matt Hansen would move to amend with AM1729.

FOLEY: Senator Matt Hansen, you're recognized to open on AM1729.

M. HANSEN: Thank you, Mr. President, and good evening, colleagues. AM1729 is a white copy amendment to my priority bill, LB433. It incorporates compromise language that removes the opposition from the two largest landlord groups by making two changes. One, it clarifies for landlords that the time line and procedures for the automatic return of security deposits, balances, if any, at the end of the lease. And two, it adds clarifying language that the new and liquidated damages section would apply only if the security deposits were withheld in bad faith. Otherwise, the current standard of actual damages would apply. I want to thank all the landlord and renters groups who have worked together to come to this compromise. As a reminder, the underlying bill makes key changes to Nebraska Landlord Tenant Law. We had a lengthy meeting a few weeks ago, and I appreciate that we were able to come together and work on this amendment so we can move forward with these issues. Since I've already had a couple questions, I would just say, part of the landlord staying neutral, one of their big concerns was the being able to turn over a unit and only lose the month of nonpayment of rent, and that was something they felt comfortable with the seven days notice because many landlords do a grace period already, and this would essentially encourage them to shorten that grace period or have the grace period run concurrently with the seven-day notice. This would be primarily a change for landlords who don't have a grace period. It would essentially be codifying that. It was the recommendation of one of the largest landlord tenant attorneys in Douglas County that he recommended that you

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

Floor Debate
May 21, 2019

always do six days, so the change from six to seven days. But when we started discussing what we actually intended with it was not a substantial change in their mind which is why they agreed to it and didn't feel it would move the eviction procedures past 30 days and into the next month. With that, again, this is a compromise with some of the largest landlord groups in the state. I would encourage you to adopt AM1729 and advance LB433. Thank you.

FOLEY: Thank you, Senator Hansen. Debate is now open on the amendment. Senator La Grone.

LA GRONE: Thank you, Mr. President. Senator Hansen outlined pretty much what I wanted to say on the amendment, so thank him for that clear explanation. I do want to thank him for his work on this compromise amendment. I outlined on General File some of my concerns with the bill. This doesn't satisfy all of my concerns, so I'm still going to be not voting on the bill, but I did want to thank him for his work on this. I think this makes this a much better bill so I will be supporting the amendment. With that, I encourage your green vote on AM1729. Thank you, Mr. President.

FOLEY: Thank you, Senator La Grone. Is there any further discussion on the amendment? Senator Matt Hansen, you're recognized to close on your amendment. He waives the opportunity. The question for the body is adoption of AM1729. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

CLERK: 43 ayes, 1 nay on the amendment.

FOLEY: AM1729 is adopted. Mr. Clerk.

CLERK: Nothing further.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB433 be advanced to E&R for engrossing.

FOLEY: Motion is to advance the bill. Those in favor say aye. Those opposed say nay. LB433 advances. LB470.

CLERK: LB470, E&R amendments, first of all.

FOLEY: Senator Slama.

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

Floor Debate
May 21, 2019

SLAMA: Mr. President, I move that the E&R amendments to LB470 be adopted.

FOLEY: The motion is to adopt the E&R amendments. That's a debatable motion. Senator Pansing Brooks.

PANSING BROOKS: Thank you. I just wanted to rise and make a statement about this as well that this is part of the 529s. And just for the record, if anyone is confused about trying to set the stage for not funding K-12 private education, I want to refer in this record to Senator Lindstrom's LB610, which we just went over, and so, again, just to make the record clear. And I talked to Senator La Grone and he was fine clarifying that again this is not to be used for K-12 private education. Thank you.

FOLEY: Thank you, Senator Pansing Brooks. The question for the body is the adoption of E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk.

CLERK: Senator La Grone, I understand you wish to withdraw AM1849. Mr. President, Senator La Grone would move to amend with AM1932.

FOLEY: Senator La Grone, you're recognized to open on AM1932.

LA GRONE: Thank you, Mr. President. As I'm sure many of you probably remember when we had the A bill for this bill up last week, I told you that there would be an amendment coming to address that issue. So on General File we had a issue from the Department of Revenue regarding-- with the fiscal note. As it turns out there was no way to address-- on my portion of the bill, there's no way to address both the impact and the OCIO fee at the same time. So what this amendment will do is it will have the cash transfer for the OCIO fee on Senator Wayne's portion of the bill, since his bill would go into effect sooner than mine would have, and it pulls my part out of there and we can attempt to do that next year if we can find a solution to that. So that's what this amendment does. It simply takes that part out of the bill and does a cash transfer for Senator Wayne's bill, which the A bill will have an amendment to achieve that as well. So I'd encourage your green vote on AM1932 and LB470. Thank you, Mr. President.

FOLEY: Thank you, Senator La Grone. Debate on the amendment. Senator Pansing Brooks.

PANSING BROOKS: Thank you. I'm just seeing this amendment for the first time. I don't-- would Senator La Grone answer a question, please?

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

Floor Debate
May 21, 2019

FOLEY: Senator La Grone, would you yield, please?

LA GRONE: Yes.

PANSING BROOKS: OK, thank you. So what-- here's a brand new fund. The Department of Revenue Miscellaneous Receipts Fund. Could you please explain that fund, where it comes from, who holds it, who has power over it? Does it use General Funds, does it come in and out of-- is the Treasurer in control of this? Please answer some questions.

LA GRONE: No. So this is the Department of Revenue's fund that the funds that they paid the OCIO fees out of. So in order to have the cash transfer for Senator-- I just got this amendment, oh, probably, maybe 30 minutes ago or whenever-- I forget when that was. But what this does, it gives that fund the authority to take in the money from the fund that's paying for Senator Wayne's OCIO fee. It's a technical amendment to allow that transfer to happen.

PANSING BROOKS: I've heard about technical amendments. So I just want to clarify, you agree this is not for K-12 private funding of education.

LA GRONE: Correct. This absolutely has nothing to do with that.

PANSING BROOKS: OK. And I'll try and look at it better over the-- between now and Final. Thank you, Senator La Grone.

FOLEY: Thank you, Senators. Senator Wayne.

WAYNE: Thank you, Mr. President. This amendment simply removes Senator La Grone's portions of the bill. That's all it does. So let me reiterate what my portion of the bill does so there's no conspiracy theory here. We have a cliff effect for those who are working right now, \$10 or \$11 and have a family. If they are to get a increase in their pay, two things happen depending on the amount of increase. They lose their childcare or they lose their food stamps, SNAP. So what happens is, an employee in my district and across the state, because everybody has them in each district, has to make a decision, do I want a dollar raise or a two dollar raise and lose my childcare. It's called the cliff effect. This is a creative way, and this is something that I thought of, no other conspiracy, and I approached the State Treasurer and say, let's try this as an example of a way to end the cliff effect. So now what we are going to do is an employer, particularly two in my district who have this problem down by the airport, they can say, I know you're at \$11 an hour, but we really believe you're a good worker, we want to bump you up to 13. And after two years you can go up to 18. Well, at \$18 an hour they can afford their childcare and

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

Floor Debate
May 21, 2019

their SNAP benefits go away and they can still survive, but it's that gap. And if the state is taking the position that childcare and SNAP and food is for the children, then let's figure out how to still invest in the children by closing that cliff gap. So this employer now can say to this individual, or the individual can say to the employer, I want the \$13 an hour raise. I want to keep progressing in your company, but take my \$2 and put in the 529 plan for my kid, and that won't count against me for my state aid. I won't lose my SNAP. I won't lose my childcare subsidy. So when that next promotion comes and they can get out of the poverty and go to 18, 20, not only do they spend that time building their 529 plan, but then they can tell their employer, I need the entire raise to pay for my family. This is a way for our state to lower the cliff effect. And I've been studying the cliff effect for three-- actually longer before because we been dealing with an OPS. This is one way that I approached the State Treasurer and said, here goes a creative idea around 529 plans that I've seen done in other states to help limit the cliff effect. That's all my bill does. It is about limiting the cliff effect. And it may not work. We may be here five years from now and say, OK, that didn't work, won't count. But we have got to do something as a body if we are going to move people out of poverty to middle-class income or middle income by saying you have to get over this cliff and this is one option. If anybody else has more ideas of how we can do it, I'm all in favor. But that's how this bill originated, and that's what this bill does for my portion, and then Senator McDonnell still has his portion that he discussed at length last time we had this conversation. So, this amendment simply removes Senator La Grone's bill, so his priority bill is now Senator McDonnell's and my priority bill. Think about that. But we are trying to solve a problem. So I really do appreciate a green vote and a green vote on the underlying bill. Thank you.

FOLEY: Thank you, Senator Wayne. Is there any further discussion of the amendment? I see none. Senator La Grone, you're recognized to close on your amendment.

LA GRONE: Thank you, Mr. President. I thank Senator Wayne for that explanation of how in true nonpartisan fashion I am passing his and Senator McDonnell's bill and doing nothing of my own. So with that, I encourage your green vote on AM1932 and LB470. Thank you, Mr. President.

FOLEY: Thank you, Senator La Grone. The question for the body is the adoption of AM1932. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

CLERK: 40 ayes, 0 nays on adoption of the amendment.

FOLEY: AM1932 is adopted.

CLERK: I have nothing further on the bill.

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

Floor Debate
May 21, 2019

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB470 be advanced to E&R for engrossing.

FOLEY: The motion is to advance the bill. Those in favor say aye. Those opposed say nay. LB470 advances. Proceeding to LB470A.

CLERK: No E&Rs. Senator Wayne would move-- I'm sorry, Senator La Grone would move to amend the bill, AM1896.

FOLEY: Amendment is withdrawn.

CLERK: I have nothing further on that bill, Senator.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB470A be advanced to E&R for engrossing.

FOLEY: Motion is to advance LB470A to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB470A advances. Proceeding to LB583. Mr. Clerk.

CLERK: Mr. President, LB583, E&Rs, first of all.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that the E&R amendments to LB583 be adopted.

FOLEY: The motion is to adopt E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted.

CLERK: Senator Bolz, I have AM1454, but I understand you wish to withdraw.

FOLEY: Amendment is withdrawn.

CLERK: Mr. President, Senator Bostelman would move to amend, AM1556.

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

Floor Debate
May 21, 2019

FOLEY: Senator Bostelman, you're recognized to open on AM1556.

BOSTELMAN: Thank you, Mr. President. I'd like to thank Senator Hilgers for allowing me to amend LB583 with AM1556. After expressing my interest in allowing all counties to be included in this bill, not just those that meet a certain population requirement. What this amendment removes is the language that an eligible county is only those with a population exceeding 150,000 people as determined by the federal decennial census. This bill will help projects work on our roads and bridges all across the state. This amendment also cleans up the bill further stating that a political subdivision shall not use a designed build contract or construction management as outlined in the bill under the political Subdivision's Construction Alternatives Act for a project, but instead shall use the Transportation Innovation Act. Although this wasn't the main motivation in wanting this amendment, after the flooding experience in our state most recently, I believe this amendment and bill will largely assist our state's productivity and efficiency in the future-- in future disaster efforts, especially in major build reconstruction. I, therefore, request your support and green vote on LB583 and on AM1556. Thank you, Mr. President.

FOLEY: Thank you, Senator Bostelman. Debate is open on the amendment. Senator Hilgers.

HILGERS: Thank you, Mr. President. Good evening, colleagues. I just rise very briefly to say that I support AM1556. I appreciate Senator Bostelman's work on this and the conversations that we've had. I think it makes a good bill better and I'd encourage your green vote on AM1556. Thank you, Mr. President.

FOLEY: Thank you, Senator Hilgers. I see no further discussion. Senator Bostelman, you're recognized to close on your amendment. He waives closing. The question for the body is the adoption of AM1556. Those in favor vote aye; those opposed vote nay. Record, please.

CLERK: 38 ayes, 0 nays on adoption of the amendment.

FOLEY: AM1556 is adopted. Mr. Clerk.

CLERK: Nothing further on the bill.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB583 be advanced to E&R for engrossing.

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

Floor Debate
May 21, 2019

FOLEY: The motion is advance the bill. Those in favor say aye. Those opposed say nay. LB583 advances. Proceeding to LB149.

CLERK: I have E&R amendments, first of all.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that the E&R amendments to LB149 be adopted.

FOLEY: The motion is adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk.

CLERK: Mr. President, Senator Quick would move to amend with AM1679.

FOLEY: Senator Quick, you're recognized to open on AM1679.

QUICK: Thank you, Mr. President. AM1679 will address a couple of items that we worked on with the Attorney General to clean up LB149 and keep it in line with other bills that are advancing this session. The first item addresses an issue that was missed during drafting and keeps consistent treatment between licensing standards for tobacco and ENDS products. Second, this amendment changes the definition of ENDS products or electronic nicotine delivery systems products just slightly to capture components of ENDS devices whether they contain nicotine or not. With that, I would urge you to vote green for this amendment and the underlying bill. Thank you, Mr. President.

FOLEY: Thank you, Senator Quick. Is there any debate on AM1679? Senator Wayne.

WAYNE: Thank you, Mr. President. I guess I'm-- I know I wasn't here earlier. I was in a meeting for the infamous hemp bill with Briese's bill, but I'm still-- I'm against this right now, and I'm probably on Final going to go all the way with this bill, and maybe Senator Briese's bill around one definition. I don't understand why the definition of nonnicotine items for vaping is included in the definition-- in this definition. To me that makes absolutely no sense. If the issue is tobacco, if the issue is the chemicals that are in tobacco, not nicotine, nicotine doesn't cause cancer, then why are we taking other things that have nothing to do with nicotine and including them in this definition? It just doesn't make any sense to me. And I have more issues on the fact that the first round we negotiated, the second round we negotiated again, and now here's another amendment that, quite honestly, the people who were negotiating the first two rounds weren't a part of. So I know it's on Select, and I didn't think we were going to get there today, and I'm still-- my ban

Floor Debate
May 21, 2019

with a couple other bills I've been going, but we're going to have to go the full distance on final round. And we're going to have to go the full distance on both of them because we're-- this is government overreach at its best. We're including things that are not even a part of tobacco in this definition, in the definition we passed earlier with Briese. That makes absolutely no sense. If there is some type of CBD oil can be vaped, has no nicotine in it, nothing, it would fall underneath this definition. A hemp product can be vaped, has no nicotine in it, nothing, but it falls underneath this definition. Water can be vaped. Simple water can be vaped. It falls underneath this definition. That makes no sense to me. We are lumping all these products underneath one thing, and we're disguising it as tobacco and nicotine, but it's not. It's anything that can be vaped, anything that can be vaped. And for my colleagues who think it's-- that government shouldn't be, you know, in a lot of the businesses that they're in, this is an open definition of anything that can be vaped now falls underneath this, and there's no scientific proof. That makes no sense. So there's two reasons why I'm a little upset, and I say little because I'm working on a lot of other bills. One, we negotiated the first round to get out of committee. I think my committee remembers that, the committee you're in. Then we came on the floor and that tried to get a runaround. Then we had another negotiation going on during that debate, and we passed the bill from first round after a lot of debate on something we all agreed on. And now with the Attorney General, and whoever else, there's another negotiation coming on that at least I, who have been a part of two negotiations, have not heard from. So to me if we're voting this bill forward, what we're saying as a body, in my opinion, is no matter what agreement we come up with, I can go negotiate with somebody else who we've already had 25 or 26, if you remember how this passed, and say it doesn't matter anymore. Every round is a brand-new round, and maybe that's what we're going to do and every round if I negotiate something, it doesn't matter, I can come back and negotiate with somebody else. The only reason why it's on my hemp bill, which is hopefully it will be up tomorrow, I spent night and day pulling everybody who was in the room and who was negotiating on every aspect back in the room every time there was a change. And that's how I thought this was done here. But if it's not, if we vote green we're saying it's not on this amendment, then that changes the game for me, because I'm going to operate as Senator Chambers say under the rules in which you all operate. I've bent over backwards on my bills to make sure everybody is back who had negotiated with me is back involved on every change. And to sit here and find out another change comes on Select File is-- the process matters. And I've said that from day one. Process matters. So to me, I'm not going to speak a lot on this bill. I'm going to see how this body votes because it's clear the committee had one agreement, backed out of. First round, we had one agreement, backed out of.

FOLEY: That's time, Senator. Thank you, Senator Wayne, Senator Quick.

QUICK: Thank you, Mr. President. One thing I want to remind people, LB149 is just for the sale of vaping and tobacco products to children under the years of-- 19 years of age. So that's all this would affect. The reason that we put in-- the reason that the other second part of the amendment

Floor Debate
May 21, 2019

was put in was to address the fact that children could still buy a vaping device even if it didn't include nicotine. So we're just addressing the fact that they could buy a device that didn't include nicotine, go out and vape some of their product in it that we don't feel is healthy for them. And so this only effects those under 19 years of age, and so I would hope that you would support this and vote this on to Final. So, thank you.

FOLEY: Thank you, Senator Quick. Senator Groene.

GROENE: Thank you, Mr. President. I was against this bill originally, and I still am. Vaping, because of it done legally in the shops, have filled the empty storefronts in North Platte and other communities, does not cause cancer. There's no evidence of any of the research over the billions of dollars probably, I'm not exaggerating, of research on cigarette smoking. The tar and the other carcinogens in cigarette is what cause cancer, not nicotine, but somehow we can't get that through, understood. Had a 50 percent drop in teenage smoking since vaping became popular with teenagers. If the schools don't want it in school, then don't allow it in school. Simple as that. But I don't want teenagers doing it, but 18 is a reasonable age, and we've all debated that so many times here. Why 18 is-- if you can go to war, you can vape. But I-- the other comment I stood for is, thank you, Senator Wayne. I had the same situation you have on LB147. Worked with committee members, had an amendment accepted as the bill 7-1, and then they turned on me and didn't take their agreement. That is why I'm pulling LB147 and I will continue to pursue that. But thank you, Senator Wayne, I understand. As a committee Chair, it's hard and you work hard. You work with people. You work with stakeholders. You think you came to an agreement, and then something goes awry, which I still don't understand what happened on LB147. But when you agree to something and you shake hands, it should follow through and it's not easy being a Chairman. And sometimes you got to stand up as an individual senator, as the rules say, with pulling-- any senator can pull a bill, and they can pull anybody's bill, and you can pull a committee priority bill. But I agree 100 percent with you, Senator Wayne. When an agreement is made, it should be held. It's an honor of this and integrity of this body. Thank you.

FOLEY: Thank you, Senator Groene. Senator Chambers.

CHAMBERS: Thank you, Mr. President. Members of the Legislature, I've been good all day, most of the day, but in view of what Senator Wayne mentioned about he's going to play by the rules that this body shows to be in place, gives me an opportunity to read this rhyme I wrote when the Catholic Church and its minions were talking about censoring me for things that I said. There are some verses at the end that will apply to Senator Wayne in terms of how he needs to defend himself. And by the way, this does not refer as such to the Catholic Church, but it was written about them. Into the ring with boxing gear on, the Catholic Church doth jump. Deeming itself Muhammad Ali, the virtual champion of thunk. Dancing and prancing while flailing the

Floor Debate
May 21, 2019

air, the Church doth glower, such guile. Clutching the top rope and doing knee bends and glaring at me all the while. Flurries of punches the Church wants to throw, while I am supposed to just take it. That is plain crazy, the Church is a pie and I am the oven to bake it. Terribly silly, the Church is to think, a fight-hardened man will be hit, and pummeled and battered with fists at his sides, defenselessly swallowing spit. This is advice for Senator Wayne. The Church had best get a grip of the rules. Whenever the bell rings or chimes, let it advance with dukes at the ready, protecting itself at all times. Once it determines to get in the ring and chooses by fighting to live, let me advise the Church to expect to get back as good as it gives. Oft times a poem is written in code, employing words not click clicks. Ring in this rhyme means not boxing ring, but rather denotes politics. If the religious want not to be punched, there's a solution quite simple. Never in boxing gear get in the ring, instead just remain in the temple. My young brother, Senator Wayne, in this place you need to protect yourself at all times. He's deep in consultation now and didn't hear that, but I was addressing something to Senator Wayne. I was giving a rule for you to apply in this Legislature, and the referee gives it when two guys approach to the middle of the ring. Protect yourself at all times. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Wayne.

WAYNE: OK, thank you. And this is my last time speaking on this issue and I think, you know, maybe Senator Quick has the votes to move this forward. And, again, at the time I actually had a meeting with Corrections regarding some issues there that happened in my district at OCC, so I wasn't here for Senator Briese's bill. I think the definition is broad, and why that matters is, every definition that we have in statute applies everywhere. So it isn't just that they buy it at 19, it's always going to be referenced and always going to be regulated even though at the end of the day there's no nicotine in the product. I mean, at the end of the day I've had some heartburn from the beginning of this bill about moving it to 19. When somebody can go over and die in a war but come back here, they want to smoke a cigarette at 18, so be it. Just don't smoke it next to me because I know the data behind that. There's no data behind secondary vaping, so that's why we fought to take it out of the Clean Indoor Air Act, and we sat here and had a compromise on the bill that I thought everybody agreed with. Then Senator Briese's bill had a definition, so I know this is trying to line up with Senator Briese's bill, but they're broad. They're broad. They're overly broad. If schools want to deal with this issue, they can. If schools are relying on us to deal with the issue, fine. If we got to get to 19, we got to get to 19. But what I don't understand, what I'll never understand is if you had 25 or 28 you negotiate something not keeping everybody informed, you probably lose three or four. Doesn't make sense to me right now, but I'm done speaking on this issue. I just want-- and I've always said this from day one, I want the body to uphold some kind of processes, to have some kind of conscience that we act in some way. And what I found out and what I'm finding out is, it depends on the issue and it depends on where we are. But for me a green vote here is telling me that when we negotiate I don't necessarily have to keep my word round to round. That's what this vote means to me because I've informed

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

Floor Debate
May 21, 2019

everybody of the process, and many people on my committee know how the bill got out in a negotiation process, then almost went back somehow on General File, negotiate again to get here, and now we're here with another definition in the bill that the Attorney General wanted, I guess. Unbeknownst to me, I didn't know the Attorney General had a problem with it during all our negotiations. So that's my issue, and that's where I'm at. And I will ask for a record vote because when people negotiate with me, I'm going to bring it back up. Can I hold-- are we good all the way through three rounds or is this just round number one because you voted green on this amendment saying that we can just go round to round. Thank you, Mr. President.

FOLEY: Thank you, Senator Wayne. I see no further discussion. Senator Quick, you're recognized to close on your amendment. He waives closing. The question for the body is the adoption of AM1679. Those in favor vote aye; those opposed vote nay. There has been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please.

CLERK: 20 ayes, 8 nays, Mr. President, on the motion to place the house under call.

FOLEY: The house is under call. All senators please return to the Chamber and check in. The house is under call. All unauthorized personnel please leave the floor. The house is under call. All senators please return to the Chamber and check in. The house is under call. Senator Groene, if you could check in, please. Senator Stinner, Senator Williams, can you check in. Senator Williams and Senator McDonnell, please return to the Chamber and check in. Senator Quick, we're lacking Senator McDonnell. At this point, we can either wait or proceed. Senator McDonnell, please return to the Chamber. All unexcused members are now present. Senator Quick, how did you want to proceed on this vote? Roll call in regular order. The question for the body is the adoption of AM1679.

CLERK: (Roll vote taken.) 23 ayes, 4 nays, Mr. President, on the amendment.

FOLEY: The amendment is not successful. I raise the call.

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

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB149 be advanced to E&R for engrossing.

FOLEY: That's a debatable motion. Senator Chambers, you're recognized.

Floor Debate
May 21, 2019

CHAMBERS: Thank you. Mr. President, members of the Legislature, I haven't voted on this bill. I think some people, due to a lack of breeding, a lack of consideration for others, will do that vaping around other people. I think it's a nasty, unsanitary activity. To me it's like sneezing on people and not covering your mouth. It should not be allowed as far as I'm concerned. I think it is just like cigarettes. Cigarettes are nasty, they are unhealthful. They're not something our children should see and think is cool to do it, and I will not get involved in this discussion because it's going in a direction that I think is a part from just what this vaping and the smoking are. I think smoking is vaping on steroids, as they say. And I am not interested in what you do with this bill because everybody now is tap dancing to try to accommodate this person, that entity, this industry. But for my part, and I'm not a germophobe, I don't want people sneezing on me. I don't want them coughing on me. I don't want them blowing smoke on me. I don't want them blowing vapors on me, whatever they call it, whatever they contain. Whatever this mist is that comes out of people's mouth when they vape, it first went into their body, and I don't consume anything if I can help it that comes out of somebody's body. You know why I say if I can help it, because they breathe and their breath comes out, and in a room where you are present, where other people are breathing, obviously, unavoidably, there would be some inhaling of some exhalants that come from other people. So I'm going to let you all run around the mulberry bush. I'm going to let you all spin, down and down I go, round and round I go. It's not worth it to me. I have other things on my mind, but as I see this thing spiraling, I wanted to make it clear what my view is. I don't see vaping as something which is harmless. I don't see the sense of what Senator Groene keeps talking about nicotine. He's not a scientist. He's not a doctor. He's not a chemist. He's not a physicist, and people make these statements on the floor that others may not want to correct, but I'm not going to correct all this nonsense. The "Bible" says, answer not a fool according to his folly, lest thou be like unto him. But knowing how human beings are, that same one who wrote that statement, Solomon, said, answer a fool according to his folly lest he break thy head. Meaning that you have to weigh what the circumstances are. If it's somebody who will listen, even if they don't agree with you, and they are foolish, then don't go along with the fool just to get along. But on the other hand, if somebody's got a pistol and they stick it against your nose and they say, one more word and I'll blow your brains out, then you answer that fool according to his folly, which is to answer by saying nothing. You have to reason. You have to rightly divide the word of truth. You have to use logic, and that's something which is not in great demand on this floor. So having unburdened myself about vaping, which I think is horrendous, I think is nasty, I think it's as unsanitary as somebody hawking and spitting on my shoe. You know, that phlegm. That's the way I see it. And, obviously, you all don't see it the way I see it. So I'll let you all run around the mulberry bush, and wherever you come up, or wind up, that's for you all to decide, not me. Thank you, Mr. President. And I feel so much better.

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

Floor Debate
May 21, 2019

PANSING BROOKS: Well I'm-- thank you, Mr. Lieutenant Governor. I, too, have a concern, and am now stopping as we all run around the mulberry bush. You know, we had talked with Senator Quick, and Senator Albrecht and I actually were going to work together on an amendment to try to make it compliant with the Clean Air Act. All sorts of people said, oh, my gosh, there's no way that you can make this compliant with the Clean Air Act. Well, take a peek at the Clean Air Act. It's pretty simple. And include it with cigar shops, it could be vaping shops. It's not a very difficult amendment at all. And I would agree with Senator Chambers. I have asked a number of people, and here we are, the old foggy-stogies. I know that's going to be tenor of the talk here, but I do not want to sit in the theater in those lounge chairs with somebody spewing vape all over me. And I saw-- and I've talked to a number of people who also do not want to have that. And people said, oh, well, you know the restaurants can put up a sign. Yep, we can put up a no gun sign, we can put up a no vaping sign. We can just have a giant billboard in front of every public institution that says don't do this, don't do that. And I am totally-- I do not feel comfortable about this, and, again, I've stayed back because I feel it's important, but a number of people do feel this is something good. Just this weekend there was a show on CNN. I know that makes some of you shut your ears, but I actually had it on and a doctor came on and said the problem with vaping is nicotine changes the teenage and the child's brain to become accustomed to becoming addicted to things, much more susceptible to addiction. So, you know, if this is what everybody thinks is the cool thing and needs to move forward on it, again, I don't want to sit at the DISH Restaurant here in downtown Lincoln and have five people spewing this vapor all over. And to act as if it's nothing, at least the smoke is dry. The vapor is wet, and I just don't want that. So I wanted to stand, since Senator Chambers took that time, and express my concern. It should be part of the Clean Indoor Act. Senator Albrecht and I have talked about doing something about this in the interim, so, again, thank you for this moment.

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

WAYNE: Thank you, colleagues. I just talked to Senator Quick and we're going to try to figure out something here. And so I hope we will bring Senator Briese into this and figure out we can get something resolved on the definition. I'm not saying whether you should be for or against vaping. If Senator Chambers feels that strong against it, I understand. Senator Pansing Brooks feels that strong against it, I understand. But the same ones who stand up and talk about data should drive decisions. That we have a bill that many people spoke out against that Senator Albrecht is carrying saying the data don't support it. But then we turn around and say we want to outlaw vaping when the data doesn't support it. I'm just asking for us to be consistent. There are a lot of things personally I want to change about the state of Nebraska, but just because it's personally for me, it may not be the best thing across the state of Nebraska. So if the data is there and there's data to support banning vaping Indoor Clean Act and having an exemption for vaping stores, if the data's there, I'm all in. That's what happened with tobacco. The data was there: years upon years of study, after cancer upon cancer, after people dying upon dying, it was there.

Floor Debate
May 21, 2019

What I'm saying right now is 80 to 90 percent of the tests that I see coming out around vaping is water vapor, there's no chemical in it. I'm just saying, let's make decisions based off of some type of data. And if it's a pilot program, we want to try to do some economic development, I get it. But if we're talking broad policy changes and regulatory schemes, let's have data to support it. So if Senator Albrecht and Senator Pansing Brooks has data in their interim, and have an interim study, you will have a co-sponsor here. But the research that I found this year doesn't support that. That's just where I'm at on that particular issue. And, again, I respect the fact that people don't want it around them. I respect the fact that individuals may not want to vape themselves. But a policy decision like that and a regulatory scheme like that should be caught up with some type of data. That's just my personal belief. So with that, I will yield the rest of my time back to the Chair. Although you don't have to do that when you say you're done, it automatically goes back to the Chair.

SCHEER: I understand what you're saying, Senator. Thank you. Senator Chambers, you're recognized.

CHAMBERS: Thank you. Mr. President, members of the Legislature, I have to put one more nail in this coffin. If there is some place where things are going on that I don't like, I don't go there. I don't go to any lobbyist functions. I don't care where they are. I don't care what they're for, I don't go. Where there are crowds of people, unless I've obliged myself to be there, I don't go around crowds of people. I'm basically a loner. That's the way I am. But on this floor we express likes and dislikes. I don't like to eat in restaurants. I don't know what goes on in the kitchen. People can spit in your food. You might say, why do think that? Well, the fact that I think it and it might be possible, I just don't like to eat in restaurants. I don't go where I'm not comfortable. Now, all these lobbyists and the ones who call all the senators will say, most of them, senator, I know you don't accept invitations, but I'm to call everybody. I say, well, we understand each other, thanks for making the call, and that terminates the discussion. I don't need a lot of people. I think one of the dumbest songs that was ever sung, and it got popular because dumb people like dumb songs. People, people who need people are the luckiest people in the world. You need people? For what? You see what people say on this floor. You lie. You enter compromises and you back out. What do you need that for? What do you need people for? The Beatles had a song about how when I was young and didn't need anybody's help in any way, but now that I'm older I'm not so self-assured. Now I find I changed my mind and I open up the door. That doesn't apply to everybody. The Beatles, like anybody, who performs, are interested in making money. So they figure lyrics that will cause people to buy their songs, so they sing what they think will buy. People will buy. They want to sell, and you are willing to buy. There should be, at some point in our life, those of us who are in the Legislature talk about education, criticize the schools for not teaching what they ought to teach, then our conduct does not conform to what we say ought to be taught to children, and we certainly do not provide an example. When my children were growing up, I didn't tell them they could go to church. I didn't tell them they

Floor Debate
May 21, 2019

couldn't go to church. Their mother went to church on occasion. They could go if they wanted to. I never told them they had to go into politics. Never told them they had to be a barber. What I told them is that when you grow up, you're going to have to live your life, not me. You may not like anything that I do for yourself, even if you're glad that I do it, but I'm not going to tell you that because this is the way life appears to me, I'm going to force you into that path. And as a result, my children did what they wanted to do. But when you're in a gathering like this--

SCHEER: One minute.

CHAMBERS: --you better be crystal clear in your understanding of what people are. And I will quote again that verse said about Jesus: He had no need that anybody should speak to him of man, for he knew what was in man and woman. And when women wake up and start using the majority numbers they have, then the word will be broken into two parts, wo-man, either w-h-o-a, stop, or woe, w-o-e. If you don't w-h-o-a, then woe is upon you. Thank you, Mr. President.

SCHEER: Thank you, Senator Chambers. Senator Matt Hansen, you're recognized.

M. HANSEN: Thank you, Mr. Speaker, and good afternoon, colleagues. Colleagues, it's my understanding, talking with Senator Wayne and Senator Quick a minute ago, that part of that amendment offered by Senator Quick was a cleanup language or at least it was intended as cleanup language to reference some definitions to be the same. I understand they're kind of quickly discussing to see if there's an option to revive part of that amendment and move forward. So with that, I would yield my time to Senator Chambers if he would have anything else to say on this issue.

SCHEER: Senator Chambers, 4:20.

CHAMBERS: Mr. President, having earlier mentioned breeding and manners, all that I will say in response to the offering that Senator Hansen, B. Hansen-- M. Hansen, made, is no, but thank you very much.

SCHEER: Thank you, Senator Chambers and Senator Hansen. Senator Quick, you're recognized.

QUICK: Thank you, Mr. President. So I just want to make it clear that all this, the amendment that I originally had proposed was to do with just, more or less, keep the product out of hands of children. So I know I've been talking to Senator Wayne about some issues. I know that he maybe feels like I went back on a deal, but I don't feel like I did because actually we took the Nebraska Clean Indoor Act out of the bill. And with that, I didn't put that back in. So that part is still out of

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

Floor Debate
May 21, 2019

the bill. All we did was try to address some of the issues that the Attorney General had, trying to line it up with Senator Briese's bill so that they kind of went together and had the same type of language in them. And then we also-- maybe with the expansion of the definitions, we were just trying to address the issues where a child could buy a nicotine device that didn't have-- or a vaping device that didn't contain nicotine, but they could put nicotine in it, and still vape that in school or vape it wherever they wanted to. We're trying to remove that from their hands. So, you know, there are vaping devices out there that-- and vaping products that children can-- could still purchase because of the fact that they didn't contain nicotine. So that was the main thing we were trying to do, and I don't know if we might-- we do have an amendment. OK. OK, so I'll have to figure out how to do this. So if we can introduce this amendment, I think we can maybe reconsider this and pass this on. It would more or less, I believe, maybe take out the expansion of the definitions of some of these products, so. And I'm good. All right. All right. Thank you, Mr. President.

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

CAVANAUGH: I was just putting my light on in case Senator Quick needed more time, but it looks like he doesn't, so thank you.

SCHEER: Thank you, Senator Cavanaugh. Senator-- we have a motion. Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senator Matt Hansen would move to amend.

SCHEER: Senator Matt Hansen, you're recognized to open on your amendment.

M. HANSEN: Thank you, Mr. President. The amendment which I just turned in and I believe will be on board and have copies of, is a definitional amendment provided by Senator Quick's staff that aligns it with Senator Briese's LB397. And with that, I would yield the balance of my time to Senator Quick, should he like to talk on the amendment.

SCHEER: Senator Quick, 9:30.

QUICK: Thank you, Mr. President. And so this would just be a technical amendment to address some of the concerns with the bill, and to address some of the Attorney General's issues with the bill as it was before, and then we took out the portion or the expansion of the definition. So with that, I would ask for a green vote. And thank you, Mr. President.

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

Floor Debate
May 21, 2019

CHAMBERS: Just so I understand where we are, is there an amendment on the desk?

SCHEER: There's an amendment on the desk, correct.

CHAMBERS: I will make a comment now. Members of the Legislature, the Attorney General, the prosecutors have no respect for this body. We can hash things out in a committee, provide amendments to a bill. We get here, then the Attorney General or his flunkies will call people out, prosecutors, and say we don't like this, and then they do the legislating. And people will change because of what the Attorney General said. There are some competent people in his office, but he is not the most reliable person. There are some principled prosecutors, but there are a lot of them who reach the level of being unscrupulous. Nothing is beneath them. A point is going to be reached where as thickheaded as this Legislature is collectively, it's going to break through to our consciousness that ours is the job of legislating. We don't do all of this work, combine our minds, give our time, then all the Attorney General has to do is say, I don't like it, and it's off the table. I've had bills I can't get out of the Judiciary Committee because the Attorney General and the prosecutors don't like what I'm trying to do, but I know that's the way the Legislature operates. And these people are canny, they are wily, and they know how the Legislature works, so they give you what they want you to have. That's why I don't push the Judiciary Committee to put anything that I bring on their Christmas tree. You know what goes on Christmas tree? Bobbles, bangles and beads. The tree itself now is artificial. It's there for the appearance. It's garish. There's a lot of sparkle, but the whole thing taken together is not worth a quarter. That's the way this Legislature is viewed, like a Christmas tree where the Attorney General and the prosecutor, instead of the senators, put on that tree what they ultimately want to have there. Then we all dance to their tune. We all dance to their tune. Here's how I dance to their tune. I've told the members of the Judiciary Committee, don't put any of the things that I offer on your Christmas tree because it will bring the whole thing down. I know that the committee members cannot stand up to the Attorney General. I know they cannot stand up to the prosecutors. They are not me. Would I, a black panther, expect a white laboratory mouse, who has lived in a cultured and comfortable and protected environment to behave as I behave. I don't expect it. But that doesn't stop me from offering the kind of legislation that I think the problems facing this state would merit. I had a bill, I wouldn't try to pull it from committee that would do away with mandatory minimum sentences.

SCHEER: One minute.

CHAMBERS: All that mandatory minimum sentences do is give the prosecutors a hammer, and it takes away from the Department of Corrections a management tool. When you put men and women in prison, and they cannot earn good time, they have no reason to behave. Nothing to lose, so they don't behave. You create problems, and you won't listen to somebody, even the

Floor Debate
May 21, 2019

Koch brothers who try to explain to you how crazy and counterproductive those things are, but you fear what will happen to you when you run again for reelection. I've got my light on one more time because I think now we're getting into some serious matters. Thank you, Mr. President.

SCHEER: Thank you, Senator Chambers. Senator Wayne, you're recognized.

WAYNE: Thank you, Mr. President. Just so, colleagues, you know where I'm at on this right now. I did look at the amendment. I don't think the amendment is OK with me, but in the essence of moving things forward and still being able if we have to address it on Final, we can. I think it's moving in the right direction, so I would ask you to support the underlying amendment and LB149. I think I still have issues with Senator Briese's definition, which is coinciding with what you're about to vote on right now. So I've committed to Senator Briese and Senator Quick that maybe tomorrow after hemp is up-- I didn't see the Speaker nod when I said that, but after hemp is up we will have a conversation and try to get this resolved and move both of these bills forward. Thank you, Mr. President.

SCHEER: Thank you, Senator Wayne. Senator Chambers, you're recognized.

CHAMBERS: Thank you, Mr. President. One of the reasons I was talking also goes to giving those who are trying to work on an amendment the time to get it done so something could be done at this stage. We wouldn't have to just sit silently. You all sit, I stand, but you get the point, and just let time pass. I would rather fill it with something when there is no real issue before us at the moment. I'm older than anybody here. If I were braggadocios I'd say I'm smarter than anybody here, but I'm too modest to say that. And for Senator Groene's information, I'm too modest to say how modest I am. But the truth is the truth and the facts are the facts and ultimately the truth is the light. We need as a legislature at some point to reach a decision as to what we are. What manner of operation are we a part of? What manner of people are we? Are you for the short time you're in this Legislature going to throw away every principle, every shred of honesty, every shred of self-respect to get along with people who don't like you and don't respect you anyway? Who are going to play you like a violin. You have the rest of your life after you get out of this place to try to jive yourself into thinking that you did a good job while you were here, but you will know inside that you're lying to yourself. You know when you're lying to yourself in this place when you're in the process of doing it, but you're too afraid to stand up and speak. You all wish you would stand like I speak-- stand like I do, because you have things that you could say also. I'm not the only one who knows these things that I'm talking about. You know them. But you're not going to say them and you're certainly not going to act on them. How can I be expected to have great respect for you when you don't do the things that merit respect? If your child misbehaves and you call yourself so tenderhearted that you will not point out to

Floor Debate
May 21, 2019

your child that this is not appropriate and you should not do it, I don't mean you go upside the child's head with a slap or beat the child with a stick. I never whipped my children. I never raised my voice to them. I never raised my voice to my wife when we were married. I never raised my hand to her. That is not the way that I operated. None of them physically would be a match for me. Now, why am I going to resort to my greater physical strength to dominate and mistreat some people? What have I done? I've turned myself into a brute. You have people who get into politics. I've been told that this senator called Sasse is going to retire or resign and get a job with the university, then the Governor is going to get the seat in the Senate that Sasse had. Have you ever heard such a thing in all your life? Do you think that's possible? You all think it's possible, don't you, because you know the nature of politics and you can see Sasse positioning himself to be the thinker, the professorial one-- professorial one, like Senator Morfeld is here in the Legislature. They all have something relative to a step up in politics. Now, if the Governor was planning to do this, if Sasse was planning to do it, they may not do it or they may do it anyway.

SCHEER: One minute.

CHAMBERS: They don't have a lot of respect for the intelligence or intellect of Nebraskans. You can see the way they campaign, the way they talk down to you. They show you scary pictures and frighten you and when that works, they know they're dealing with a bunch of pushovers, cupcakes and stupid people and they play to all of those things. They don't engage your mind. They don't make you look up and see something better than what you have. Is this my third time, Mr. President?

FOLEY: It's your second time.

CHAMBERS: I want to speak one more time.

FOLEY: You're recognized, Senator Chambers.

CHAMBERS: A lot of people were impressed by John F. Kennedy and the way he could put words together, the way he could inspire people, the way he could quote Lucifer and have people seeing those words as being highly inspirational. You know that some see things that are and ask why. I dream dreams that are not and ask why not, or whatever it is. Do you know where those words came from? George Bernard Shaw. But Kennedy had a way of appealing to something in people. He made them feel, while he was speaking, that they do have something better in themselves. There is something better that a government should do for the people at large, that the term, common good, had meaning and substance to it. He was considered one of the most inspirational of the Presidents that you all had. Oh, and you see what happened to him, don't you? Abraham Lincoln was somebody who had a way with words and you see what happened to

Floor Debate
May 21, 2019

Abraham Lincoln. Now, some of these other people who were President will live forever and there is a period in history where you could give the names of six or seven and you'd mix them up and you wouldn't know which one was President when. That could be what you all would do. You all are capable of those things. Why do you think these preachers come here every morning and pray over you all? Do you think they don't know the nature of people who are here? You think they don't read the paper and see the kind of things we do, the kind of programs we ought to put in place but won't? They're not praying to any god. They know that their god told them, I know what you have need of before you ask, so go in your closet and we'll talk. And don't use vain repetitions like the heathens do because I know what you need before you ask it. These preachers have all read that. But they think that if they come in here with a backward collar, or if they come in here with a reverend doctor title, or an elder, or whatever it is, that maybe they can say something that will stir you all into stars, a manhood and womanhood in the finest meaning of those terms. Listen to their prayers. They are preaching to you with small sermonettes. Help these people do the good. Let them take care of the people. All those kind of nice sounding words and you all don't pay attention to them. And the preachers know that too. Everything is a ritual. Everything is a ceremony. Everybody is pretending and everybody goes along with the game. Everybody pretends these preachers up there are saying something that mean something. The preachers pretend that they are doing something that is carrying out some higher order of some higher power. But they know you all are impervious to all of that. And I know it too. I'd have come up here if you had Mickey Mouse up there or Donald Duck or Goofy or Pluto, Porky Pig. They're real. They are what they are. Porky Pig would say that's all folks and you know that's all Porky Pig can say. And Porky Pig never winds up speaking in a fluent way. And I think Porky Pig should not have been created--

FOLEY: One minute.

CHAMBERS: --and put out there for children. He even has a song that he sings. I'll have a blue Christmas. And I have to admit, it's the funniest thing I have ever heard. Porky Pig is singing, I'll have a blue, blue Christmas in a joint. And you can hear the people laughing, trying not to laugh. And why do they laugh at Porky Pig? Because he stammers. Do you know why children sometimes will bully? They see things that grown people do. They hear things that grown people say. But when a child says it to another child, it's not meant to be funny, it's meant to make fun of. You all have a lot of thinking you ought to do. And I'm wasting my time here. But sometimes--

FOLEY: That's time, Senator.

CHAMBERS: --I just want to take some time. Thank you, Mr. President.

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

Floor Debate
May 21, 2019

FOLEY: Thank you, Senator Chambers. Senator Matt Hansen, you're recognized to close on your amendment.

M. HANSEN: Thank you, Mr. President. Thank you for your courtesy this evening, colleagues. Just a reminder, AM965 is at the request of the Attorney General and it corrects a few drafting errors that we caught midway through the process, mainly coordinating definitions throughout the statute. Senator Quick said, I believe, he and Senator Wayne and Senator Briese have agreed to talk more about these definitions and how they interconnect with the other bill. So for the moment, I would just ask for your courtesy in adopting AM965 at the request of the Attorney General so we can move forward with this bill and with the agenda this evening. Thank you, Mr. President.

FOLEY: Thank you, Senator Matt Hansen. The question for the body is the adoption of AM965. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 31 ayes, 0 nays on the adoption of Senator Hansen's amendment.

FOLEY: AM965 is adopted. Is there anything further on the bill, Mr. Clerk?

ASSISTANT CLERK: Nothing further, Mr. President.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB149 be advanced to E&R for engrossing.

FOLEY: Members, the motion is to advance the bill. Those in favor say aye. Those opposed say nay. The bill advances. Items for the record, please.

ASSISTANT CLERK: Thank you, Mr. President. A series a new interim study revolutions: LR210, LR211, and LR212 by Senator Stinner; LR213 by Senator Vargas; LR214 by Senator Wishart; LR215, Senator Briese; LR216, Senator Walz; LR217, Senator Vargas; LR218, Senator Halloran, as well as LR219, and LR220, and LR221, and LR222. I have amendments to be printed: Senator La Grone to LB470A; Senator Lindstrom to LB186, and Lindstrom to LB186A; Senator Wayne to LB657. That's all I have at this time.

FOLEY: Thank you, Mr. Clerk. We'll proceed now to LB532.

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

Floor Debate
May 21, 2019

ASSISTANT CLERK: Mr. President, on LB532, there are no E&R amendments. Senator Hilgers would move to amend with AM1596.

FOLEY: Senator Hilgers, you're recognized to open on AM1596. Is Senator Hilgers on the floor? Senator Hilgers. We will pass over that amendment for the moment. Senator Cavanaugh, would you like to open on AM1596?

CAVANAUGH: Yes, Mr. President, thank you. This is an amendment that came out of discussion from my bill LB532. When we discussed it on General File, Senator Hilgers had talked about some concerns about the petition and affidavit for the showing cause for why the hearing is-- why they're not having a hearing and so this was a compromise amendment that Senator Hilgers worked on with both the committee and the advocacy groups that I've worked on with this bill. And I am pleased to have him bring it and I hope that everyone will vote green.

FOLEY: Thank you, Senator Cavanaugh. Is there any discussion on the amendment? I see none. Senator Cavanaugh, you're recognized to close on the amendment. She waives closing. The question for the body is the adoption of AM1596. Those in favor vote aye; those opposed vote nay. Record, please.

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

FOLEY: AM1596 is adopted. Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senator Cavanaugh would move to amend with AM1773.

FOLEY: Senator Cavanaugh, you're recognized to open on AM1773.

CAVANAUGH: Thank you, Mr. President. This amendment is in response to a Nebraska Supreme Court ruling that was published on May 3 which dealt with the protection orders. This amendment is in response to the language of that ruling clarifying in LB532 that the respondent's right to procedural due process is protected by providing sufficient notice and an opportunity be heard when a court changes the type of protection order. I encourage everyone to vote green on AM1773. Thank you.

FOLEY: Thank you, Senator Cavanaugh. Discussion of the amendment. I see none. Senator Cavanaugh, you're recognized to close. She waives closing. The question for the body is the adoption of AM1773. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

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

Floor Debate
May 21, 2019

ASSISTANT CLERK: 40 ayes, 0 nays on the adoption of Senator Cavanaugh's amendment.

FOLEY: AM1773 is adopted. Anything further, Mr. Clerk?

ASSISTANT CLERK: Nothing further, Mr. President.

FOLEY: Senator Slama for a motion.

SLAMA: Mr. President, I move that LB532 be advanced to E&R for engrossing.

FOLEY: The motion is to advance the bill. Those in favor say aye. Those opposed say nay. LB532 advances. LB532A.

ASSISTANT CLERK: Mr. President, there are no E&R amendments.

FOLEY: Senator Slama for a motion.

SLAMA: Mr. President, I move that LB532A be advanced to E&R for engrossing.

FOLEY: That is a debatable motion. Senator Cavanaugh, you're recognized.

CAVANAUGH: I'm sorry. I just wanted to take a moment to say I would be remiss without thanking Senator Hilkemann for prioritizing this bill and I just appreciate all of the work that everyone put into this very, very important piece of legislation. The family of Janet Bohm has been watching us this evening and this-- and to refresh everyone's memory, she's the woman who she and her daughter were burned by her husband, her estranged husband, when her protection order was dismissed without cause. So this is going to make a real life impact in people's lives in the state. And I know we've had a long, tiring day, but I'm just so grateful to this body for moving forward such an important and impactful piece of legislation that impacts loved ones that I have that have been through this and that I'm sure many others have as well. So thank you, Senator Hilkemann, and thank you to my colleagues today.

FOLEY: Thank you, Senator Cavanaugh. The motion before the body is to advance the bill. Those in favor say aye. Those opposed say nay. LB532A advances. Speaker Scheer, you're recognized.

Floor Debate
May 21, 2019

SCHEER: Thank you, Mr. President. Colleagues, they have passed out a list of the queue that was intact when we left LB147. This is the format we will use. This will give us essentially two more hours of debate on this bill. That will be a total of three. I think that's more than appropriate for a pull motion. At the end of the queue, we will go to a vote on the pull motion itself. The President will be using this. It's-- if you have time, if you want to yield it to somebody, certainly you can. It's like any other debate. But we're just closing the queue off because this is the amount of time we've got left, is two hours, and that's how many people are in the queue. So you're welcome to share your time if you wish. But this will fulfill the time obligation on the bill itself. Thank you, Mr. President.

FOLEY: Thank you, Mr. Speaker. First in the queue, Senator Slama.

SLAMA: Thank you, Mr. President. I rise in support of the pull motion. Like Senator Walz, I'm one of the few people in this body who actually has in-classroom experience. You all may not know this, but I was a substitute paraprofessional in my hometown last spring. It was a eye-opening and wonderful experience. But through that experience, too, I've seen some of the issues that Senator Groene attempts to address in this bill and, thus, I believe that LB147 deserves discussion on this floor. And with that, I'd like to yield my time to Senator Groene.

FOLEY: Thank you, Senator Slama. Senator Groene, 4:20.

GROENE: Thank you. I'd like to remind people a pull motion is not out of the abnormal in this body. I talked to a lobbyist that I knew had been here a long time and he said one to two times a year over the last 35 years that he had been here in instances like this. Not often does the Chairman have to pull a committee priority bill out, but it just happened to be my bill too. I guess if I wanted to play the game I could have got a friend to drop the bill and then had them pull it later. But-- but this is serious business. This is a good legislation. We have worked on this bill for three years. It has evolved into AM1750. We've had input from many stakeholders, including school boards, administrators, ACLU, special education interests, teachers, and parents. This bill is no longer mine. I said earlier, yes, the green copy gets pulled, and I'm a man of my word. AM1750 will be the bill if it ends up this year finalized. If it doesn't and it's carried over, the priority remains and then, as in the past, if it's on the floor, as the representative from the teachers union said, they've tried for 20 years to get something done. So when you hear claims that we're going to do studies or LRs, they've always brushed it aside. We need this bill on the floor. So if it does go over the interim, there's a rock and a hard place that we have to work on it. And I would be willing to work with anybody. But it needs to be on the floor. It's a committee priority. I would like to remind everybody about the past three years or four years. I've been Chairman going on three years. In 2017, we had the same four senators obstruct a bill coming out of committee. It was Senator Linehan's reading bill. Senator Linehan priority, she

Floor Debate
May 21, 2019

prior-- she pulled it and she got 30 votes. And by the way, if you hear anybody say that it's against the committee policy and it's Chairmen defend their committees, 14 committee Chairs voted for Senator Linehan's pull in 2017, 14-- so that's fancy if somebody tries to claim that-- because those committee Chairs and-- and 30 people knew this was important to the state of Nebraska, the reading bill. It sat over the interim and the-- those who opposed it were forced to work with Senator Linehan. They did. The next year I agreed to let that reading bill be amended into the committee bill, priority bill. The system works. It works. It works there. The following year in 2018, the same four senators were obstructionists and would not allow Senator Brasch's civics bill out of committee. Senator Brasch pulled it. She got 27 votes. Again, Chairs voted for it, multitude of them. It-- it had its three hours of debate and then we ran out of time at the end of the session and Senator Brasch was unable to get the next three hours. But guess what? The following year, Senator Slama picked it up, this year. Pressure was on. The people of Nebraska wanted the civics bill. It passed--

FOLEY: One minute.

GROENE: --44 to 4-- to 2. Those four senators who tried to keep Brasch's bill in committee ended up voting for it. Senator Chambers ended up voting for it, if I remember right. This is not uncommon. I have a committee that is entrenched. And I will tell you this, I probably wouldn't have pulled this, but when I was guaranteed with a 7 to 1 vote that AM1450 [SIC] would become the bill and then there was retrenching again with no argument, no dispute in the committee, no talk on the-- on the bill, the next vote we took without comment was 4 to 4, same as Senator Brasch's bill, same as Senator Linehan's reading bill. I don't like this. I try to work with people. We have voted a lot of bills out of that committee that were left leaning, if you want to talk about left and right leaning, a lot of them. Senator Cavanaugh had a bill come out of that committee. I voted for it. This is a common-sense bill the people--

FOLEY: That's time.

GROENE: --of Nebraska want. Thank you.

FOLEY: Thank you, Senator Groene. Senator Lathrop.

LATHROP: Thank you, Mr. President. Colleagues, good evening. I am opposed to this motion. It has nothing to do with the merits of the underlying bill. This is just a bad way to legislate. It is a bad way to do this. And, Senator Groene, if there's a lobbyist out there that says this has been happening two or three times a year for 35 years, I'll disagree. I was here for eight years from 2007 to 2014. I think I saw a pull motion twice in eight years. Somebody-- the thing about these things that almost always happens is a pull motion is something that has sort of-- it sounds kind--

Floor Debate
May 21, 2019

kind of like a good idea. It might be one of those popular things. When I was here, there was a senator that-- that did a pull motion to pull a bill out of Health and Human Services Committee that would prohibit using thimerosal in vaccines because she was convinced, as were a lot of parents, that it-- that there was a link between the thimerosal and autism. Completely debunked, right? Completely debunked in the meantime. People in the Health Committee knew it, but it was a popular notion. If you knew somebody with autism, they suspected thimerosal caused this. And so now we have another bill. What are we going to do with physical contact with students? It has sort of an appeal to it, right? It's one of those things that sound good. We think we know enough about it. But the committee's been working on it and they can't come to an agreement. Now, the idea that we're gonna do a pull motion, I'm going to tell you that before term limits, before term limits there were people that understood that pull motions are bad for the institution. We can in the rules do a pull motion. We can also do a motion to set the agenda. So we can take the Speaker's agenda on a motion and change it if we like and if you can get enough votes. But it's going to create chaos. These are short-sighted, procedural maneuvers, colleagues, because here's the question I have for you. Are we just going to do this with somebody's priority bill or is it going to be anything? What's stopping us from doing any bill? There's some Senator Pansing Brooks would like to have out of Judiciary Committee, she just reminded me this morning. What if she throws a few pull motions up on the Judiciary Committee bills she wants out on the floor? They're not priorities. Are we going to do this just for priorities? We going to do it for anything? What happens when we get 35 of these in one year? And throw in a couple motions to change the Speaker's agenda. And then you see the chaos that's going to ensue. And the reason we only see one or two of these is everybody else has this notion that it will be chaos, and it will. So Senator Groene hasn't been successful in bringing the parties together to a place where they can get five votes for a bill. That's no reason to pull it. It's-- it's reason to go back, get people together and work through it. This is a really bad idea, a really bad idea. And I-- and I-- I look across the room at the Chairmen and I think, well, Senator Brewer chairs the Government Committee. What about a bunch of that voting stuff that maybe the left would like to see come out of there? How about we take up five motions to pull those bills? Or we go over to the Exec Board and pull out the redistricting bill that's not coming out. Every committee has bills that they're working on. They're trying to develop some consensus. And by the way, those committees are where people took testimony, where they have vetted, where they have distilled, where they have found compromise, and then they come to the floor. And that's the committee process. We should respect that. It's the important part of respecting our institution. But I can tell you, if you want to go down this road, we're gonna have a whole bunch of pull motions. This is going to be water going over the dam and you will be sorry you voted for a pull motion because you will have a lot of them next year. You will have a lot of them next year. And we will be deprived as a floor, as senators taking up a bill on the floor. Why would we-- why would we prepare for a committee hearing? Why don't we just introduce a bill and who worries about if there's testifiers, if anybody comes with any expertise, whether legal counsel vets it in the committee?

Floor Debate
May 21, 2019

FOLEY: That's time, Senator. Thank you, Senator Lathrop. Senator Gragert.

GRAGERT: Thank you, Mr. President. I, standing here and just keeping a eye out and ear out for the-- all the debate, and I want to yield my time to Senator Groene if he needs.

FOLEY: Thank you, Senator Gragert. Senator Groene, 4:45.

GROENE: Thank you. That's why the debate. Thank you, Senator Gragert. Senator Lathrop throws some scares out there, scare tactics. When I did the pull motion, the first thing the Speaker asked me was, do you have 25 votes? I had to show him a voter card. I had more than 25. I hope those people are still in attendance. I hope they keep their word, because the debate, I think, is civil here and it's going in our favor. So this idea that everybody's gonna pull-- pull, I have a bill in-- in Natural Resources. I'm not trying to pull it because I, right now, think I can get something done next year or I don't want to bother the body with it because I have been working with the interests, the Attorney General Office and-- and then the Nebraska Natural Resources. I worked with everybody here. The work is done. All the special interests sat around a table for four hours and hammered out AM1750. I was told by members of the committee that if we-- I did that and I kept my fingers out of it and I accepted their results, they would support it. Even one of them even told me that if the administrators were not going to be-- not cooperate then, by God, they had their chance and they would support it. The amendment was accepted 7 to 1 in Exec. I had five votes on another amendment, folks. Games were played. Senator Kolowski agreed to vote on the-- on the administrators' amendment, but then Senator Pansing Brooks said, no, let's do AM1750 'cause you'll have seven votes. So we replaced the amendment. I said as long as we get something done. Children are waiting. Teachers are anxiously waiting for this legislation. Parents are worried about their kids in schools. I'm willing to do it. So we did it. The vote was 7-1. When it came to get it out of committee, it was 4-4. Same thing that happened with the civics bill in 2017. Two thousand happened-- I mean with the reading bill. Same thing that happened with the-- with the civics bill in 2018, same scenario. The people in Nebraska wanted those bills. They heard the debate. That is why we have a pull motion in our rules, when you have obstructionists who will not cooperate. I have cooperated. Senator Linehan, Senator Brewer, Senator Murman, we worked hard, we cooperated. We brought bills out. We were willing to bring other bills out so we could have this debate on the floor on a very, very important issue, the safety of our children. And it's deteriorating fast and we all know it. I wasn't going to say this, but I will. I never have nightmares of dreaming that some day I'll stand on this floor and say I told you so. Some teacher, some employee at the school didn't react in time to stop some violence. I did research. You knew who gets shot? You knew who dies? It's children and teachers, it's not administrators. They're not in the room. That is why this is so important at that moment in time that violence is happening in the school, when a child is-- is-- is gearing up to disrupt the class, that a teacher has control of their classroom. This is important to education. This is important to Nebraska.

Floor Debate
May 21, 2019

FOLEY: One minute.

GROENE: I don't have time for politics, I don't. I didn't come down here for it. I voted across the line with senators who we went toe to toe with. Senator Wayne would tell you that, butted chests, then the next time we're together. I can [SIC] get cooperation in my committee from certain individuals on bills that are important to Nebraska. I do not know why. I do know why and I won't say it here. But this isn't about them. This is about the state of Nebraska. This is about children. This is about the safety of our schools and-- and what we allow, what we want parent-- this isn't about mental health, folks. The reason the child is-- is threatening Susie or beating her up, or Susie is beating up Johnny and threatening his life has nothing to do with the reason. It has to do that it is happening at this time and we have to protect those kids in the classroom. That's what LB147 is about. It is a lot milder version than I brought last year. It is not written by me.

FOLEY: Time, Senator.

GROENE: Thank you.

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

La GRONE: Thank you, Mr. President. I rise in support of-- of the pull motion and proud to be a cosponsor of LB147. I think this bill is important to give our teachers clarity, as well as keep kids safe. But so he can go more in depth on what he was saying, I'd yield the remainder of my time to Senator Groene.

FOLEY: Thank you, Senator La Grone. Senator Groene, 4:42.

GROENE: I was going to read some of the comments. You guys got the e-mails from teachers. I got lots of them over the last three years. It's almost like they're-- they're obituaries of being a teacher and it's sad. I'm quitting after 30 years. I'm quitting after 25 years. I no longer have control of the classroom. I have no support from the administration. I no longer have authority in my classroom. I'm currently a teacher who will be a principal next year. I'm writing to tell you about three things I have witnessed in the last three weeks. Two occurred in my urban district and one occurred in my small town. Three weeks ago in my school a student was in the hallway and-- and a counselor walked by a student. The student sucker-punched the counselor and then proceeded to bite him on the arm, breaking the skin. This occurred because the counselor had tried to help him earlier in the day, but the student did not want to talk to him. A few hours later, the student saw the counselor just walking in the hall and attacked him. The second instant I witnessed was in a small town middle school, less than 200 students. During that time, a student

Floor Debate
May 21, 2019

came into the office to meet with the administrator. I was in an adjacent room and heard the student yelling obscenities at the administrator. Then I heard things being thrown against the wall. Finally, after the fact, the principal told me that the student threw his glasses at him, breaking them, and giving him a bruised lip. That same day back in my school, a fight broke out between two students. The teacher hesitantly jumped in to help break up the fight. There is no clear procedure on what a teacher should do in my district when a fight breaks out, and this is by design so the district is not liable. What is best for the students and the staff is a secondary concern. The fight drew a lot of blood. One student spit in the face of one of the teachers breaking up the fight, and another was contaminated by blood as well. My understanding is that at least three staff members had blood sprayed on them, two teachers and one administrator. One of the teachers then elected to have their blood tested for the next six months to screen for any kind of disease that may be connected to this incident. And you're worried about vapor, vape? These teachers have a bigger concern. The other called in sick the next day. My point is this: parents are failing kids. And he goes on, teachers and administrators are being bombarded by incidents that did not sign up for and for-- as a result, fewer people are choosing the profession. It's not pay, folks, why they're getting out, not taking the profession. They wanted to be teachers, not bouncers or security guards. I wish every teacher in this state would sit down and write you a small summary of what they have seen in this year in their schools. This message contained only one I have seen in the last three weeks. You want to waste time talking about procedure or you want to help this, do something that needs to be done? That needs to be done, that's why I pulled LB147. You can talk about procedure as much as you want, but I didn't come here to do that. I came here, and I'm Education Chair because I truly believe in education and I truly believed every child needs the opportunity to receive it. And those 12 or 13 that are not causing trouble should not be denied every minute they seek to absorb knowledge because somebody has decided to disrupt the classroom. That is why LB147 is critical to the state of Nebraska. It's critical to public education and it needs to be passed, and it needs to be done this year 'cause things are changing fast.

FOLEY: One minute.

GROENE: It's a good bill. It's been vetted. It's been talked through by all the special interests and it needs to become law. If you want to do something on mental health, fine, bring the bills next year. We-- we still have them in committee that we can consider, but this has nothing to do with that, nothing. This has to do with behavior and the lack of boundaries that are going on in our schools. The reason is manifold. But our teachers always were the backstop because we allowed them to treat every child equally, to "treatch"-- teach them their boundaries that the parents did not. We have taken that away from our schools and from our public servants in our-- in our schools. By the way, I'll talk about it later, I think we're going to run out of time, if somebody else yields me time.

Floor Debate
May 21, 2019

FOLEY: That's time, Senator.

GROENE: Thank [INAUDIBLE].

FOLEY: Thank you, Senator Groene. Senator Walz.

WALZ: Thank you, Mr. President. I stand in opposition to LB147. I have never supported this bill. I think Senator Groene realizes that I've been pretty consistent in not supporting this bill for so many reasons. And I am so disappointed in the Education Committee. And I didn't want to mention this but, Senator Groene, since you started talking about scare tactics, a lot of people on the committee have been threatened that if they did not vote for this they would not be reelected. Senator Patty Pansing Brooks was threatened when you said that you will personally hold her responsible if there's a shooting in the school and she didn't pass your bill. I'm so disappointed in the fact that instead of trying to bring our Education Committee and our education community together, that there's a purposeful wedge that's being drawn between teachers and administrators. That is not going to solve the problem. This bill has been worked on as much as possible. We have had five amendments on this bill and we have yet to find one that works. That tells me, roadblock after roadblock after roadblock after roadblock, that this is not a good bill. And this is not just about a win. This is about kids and this is about really supporting our educators. This does nothing to help that educator who is in that situation to be educated and trained and know what to do, nothing. I do feel that we've been able to raise awareness between teachers and parents and advocacy groups and administrators. And we will not stop working on ways to find solutions that include education and training for our teachers, and resources and services for our kids who need mental and behavioral health. We have had so many good bills in our committee that have been brought that were not able to even be discussed this year. And I don't feel that any of them that deserve the consideration that they should have had. This is what disappoints me the most. This bill was held in committee for a reason. It's a perfect example of why we have the process that we do. Rushing to pass a bill like this is dangerous. We are talking about the appropriateness of using a restraint on a child by teachers or other school personnel. This is a serious situation and we cannot rush to pass a law like this. With that, I'd like to yield the remainder of my time to Senator McCollister.

FOLEY: Thank you, Senator Walz. Senator McCollister, one minute.

McCOLLISTER: Thank you very much, Mr. President. Although I sympathize with Senator Groene, I have to oppose this bill. I have a bill stuck in the-- head-- the HHS Committee right now, a very good SNAP bill, and it's stuck 4-4. I understand the way the process works, so I'm out of luck because that bill apparently isn't going to move forward. I trust the process, and I think we all need to do that as well with this bill. So don't advance LB147. Let the committee

Floor Debate
May 21, 2019

process work and develop a bill that is-- truly merits discussion by this full Legislature. Thank you, Mr. President.

FOLEY: Thank you, Senator McCollister. Senator Williams.

WILLIAMS: Thank you, Mr. President. Good evening, colleagues. And I rise in opposition to the pull motion and in opposition to the underlying bill as well, although our discussion right now is on the pull motion. Senator Groene said this is serious business, and I absolutely agree with that. This is serious business. Considering not following an established process that we rely on in this body is serious business. Trust, my friends, is at a premium in this body. We need to be able to trust each other. That has been challenged over the last few years in here by people that want to stand up on the microphone and say they tell the truth all the time, and then you know that there are bargains being made in the background. But trusting our process is ultimately important, especially for those senators that have not experienced this experience for very many years. There is a reason to have the ability to pull a bill from committee. That's when you have a situation that you have a Chairman that refuses to schedule an Executive Session to bring a bill out. That's when it is normally used, not in a situation where there just simply aren't enough votes to put forward the bill. Again, we had 739 bills introduced this year. We can't watch and monitor all of them. We have to trust our committees. I expect that of all the committees, including the Education Committee. You know, we're-- we make tough decisions in here and we can't allow ourselves to make those decisions because they're popular or because they're easy. We make them because they're right. I have 13 school districts in my legislative district. I've heard from almost all of them and they are opposed to this. I have also heard from teachers in my district and not one of them has told me that they have a need for this legislation. So with that, I would yield the balance of my time to Senator Pansing Brooks.

FOLEY: Thank you, Senator Williams. Senator Pansing Brooks, 2:20.

PANSING BROOKS: Thank you, Mr. Lieutenant Governor. Thank you, Senator Williams. I rise with some angst. The past couple days we've heard some comments levied at people saying, oh, you promised this, or, you went back on your agreement. I-- I don't-- I don't agree with it. It happened to Senator Quick and I happen to know that, that friend of mine, and I do not believe it. And I don't like this-- this whimsical way that we just levy this. I never agreed with Senator Groene. Somebody just came up to me and said, what was the 7-7 that you agreed to? No. We tried to get groups together. One group pulled off, another group pulled off. We could not get total agreement. That's why I wanted to go forward with the interim study. And so to say that-- that there was some sort of agreement, there was never an agreement. And that-- that really does pretty much infuriate me when you question my integrity and I will stand up against that. Senator Groene continues to mention the Linehan bill that was pulled. It failed. But guess what?

Floor Debate
May 21, 2019

We had-- that one passed, yes. That one passed, sorry. That one passed but-- but I did not vote for it, but we also went forward and worked on a-- an interim study to look at reading across the state. The Brasch bill on civics was pulled. I believe that one failed. Is that correct? Yes. So Senator Brasch's bill failed. But guess what? The two obstruct-- two of the people that worked and-- and helped make things good and stronger and worked together across the aisle were two of the obstructionists that Senator Groene is talking about. Senator Morfeld ultimately helped Senator Slama and they worked together and pulled together a stronger civics bill than had been done before. And I would arguably say that Senator Linehan and I were-- she helped on my dyslexia bill and we worked at looking at reading across the state. That was a positive, bipartisan, and multipartisan effort that ended up passing good law. And that's what can happen. I said at the beginning of my statement last time on the mike that I appreciate Senator Groene. I appreciate the-- the passion he has--

FOLEY: It's time, Senator.

PANSING BROOKS: --on this, but--

FOLEY: That's time.

PANSING BROOKS: --we have to work on a study. Thank you, Mr. Lieu-- [INAUDIBLE].

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

CHAMBERS: Thank you, Mr. President. Members of the Legislature, the deck is stacked as far as bringing this bill out. I don't know how many votes the Chair or the Speaker said that Senator Groene has to have, but ultimately it's gonna take 33. And other bills are going to take 33. I'm tired of hearing Senator Groene. He's something like the President when he says things that are not completely true. We have-- we'd have ten days if we were gonna go to the 90, but subtract 4 from that. And I can take some time. One thing's sure, you'll not have another consent calendar. That's over for this session. Now, Senator Groene can play on you all and talk about you being a conservative and you need to do this and that. Sometimes you need to count up the possible cost of what you're doing. Rules are guidelines. When there are people who do not respect those rules and then want to have others adhere rigidly to the rules, that's not the way it goes. I've always operated under the rules of this Legislature. I think one of the most contemptible acts that can happen, one of the greatest breaches of confidence and trust is when a Chairperson tries to pull a bill from his own committee and, in the process, demeans, degrades, and condemns other members of that committee. It shows me the nature of person that that Chairperson is. And he should not be the Chair but he got it at a time when the "Repelican" Party wanted to punish democrats and wayward "Repelicans" and wanted to lock all the positions up. And they did it

Floor Debate
May 21, 2019

and they created a bitterness, some of which lingers to this day. You can bring this thing out here. You're tired now. You think it will be over if you vote to bring it out here. It's not over. That, I assure you, will be the beginning. There have been a number of occasions when I was prepared to take the rest of the day, and your Speaker was able to prevail on me to do differently. It won't work anymore. You all are going to see that I can take the time that I say I will take. I don't care if we stay till midnight tonight. I don't care. I'll be here and I won't be leaving this floor to go hide out in wherever these senators go to hide out. And I will take time. I've written complaints on judges that I think I need to read to everybody, lengthy complaints. I've got much material that I will just spend the time reading and that is a way for me to make them matters of official record, because everything said on this floor is recorded and transcribed. I have some folders, this is just a tiny bit that I was going to make use of. And then I saw what was happening on the agenda.

FOLEY: One minute.

CHAMBERS: And I had a discussion with the Speaker and I was good. Do this if you want to. Let Senator Groene lead you down a primrose path. And I see Senator Brewer on here. If he votes with Senator Groene, he's got a bill of mine locked up in committee and at one point I was told the vote is 4 to 4. I've got a committee in-- a bill in Ag Committee. I've got one in Natural Resources. And there's no rule that says that a bill has to be a priority bill before a motion to pull it can be made. Senator Groene's correct when he says anybody can make a motion like that on any bill. Well, get ready for some more of those motions. And if the Speaker refuses to schedule them--

FOLEY: That's time, Senator.

CHAMBERS: --then that gives me additional freedom. You said time?

FOLEY: Yes, sir.

CHAMBERS: Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Albrecht.

ALBRECHT: Thank you, President Foley. And I would like to yield my time to Senator Groene.

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

Floor Debate
May 21, 2019

GROENE: Thank you. I want to clarify something that Senator Walz said. In the three years I have been Chair, if a senator brought me that they wanted to Exec on a bill, I have execed on it, the committee has execed on it. No bill has been denied an Exec Session. So Senator Walz is in error. The normal for the time, consuming the time, is most Chairs do: show me that you have five votes. Actually, when we execed on LB147, we execed on four other bills. Senator Vargas' bill came out on 7 to 1 vote. The other four were 4-4, locked. If Senator-- one of them was Senator Walz's. If Senator Walz wants to pull her bill from the committee, I will support her. If Senator Pansing Brooks wants to pull a bill 'cause it's important to her, it is in the rules, I will not fight her. The reason we had 59 bills, we had 700-and-some bills, I guess-- just think if every one of those came out of committee. I would think 18 out of 59 that were execed on was a pretty average number of bills in a committee. I have always held an Exec when a senator brought me a request. And, Senator Walz, I told you in a polite conversation that this is an important issue to people in your district, I grew up in that area, and it could hurt you if you were against it. I did not threaten you. That was a comment, as a friend, as the person who I asked to be Vice Chair of the committee. That was not a threat. That was a friend giving you political advice. You could take it or not. But we have idle conversations in this body all the time. And I did not tell Senator Pansing Brooks. I said the same thing to her, she overheard it, as I said a little bit on the floor. I do not want to stand on this floor and say I told you so. That's not a threat. That is an instance I do not want to live through, that somebody didn't react when violence occurred in the classroom. This is serious business, folks. Twenty-- by the way, 23 other states and a few more, I believe-- I'll have to check with my staff, they've been researching it-- have bills similar to this. Lot of the language came from those other states: California, New York, those are not conservative states that we would think of, have statutes similar to this. This is not some wild-eyed bill that came out of Oklahoma. It's good legislation and the state of Nebraska needs it. We need to protect our teachers. We need to protect out children. I've-- I've been in error when I told you the vote was 7 to 1. It wasn't 7 to 1. It was 7-0, 1 abstaining because they didn't want to vote against it but didn't vote. That was for the amendment, yes, it was, the amendment, a white copy amendment, that be-- that would become the bill. All of you sit in committees, all of you. What would be the assumption you would make if you sat in Exec and a white copy amendment was voted on to a-- a bill and it was voted on 7-0-1? What would be your conclusion?

FOLEY: One minute.

GROENE: That bill would be on the floor, wouldn't it? The next vote would be 7-0-1. I don't know what happened. I do know what the facts happened and, therefore, I am standing here with a pull motion, because this is important to Nebraska. Now, who plays politics? It wasn't four of us who kept our vote the same. We voted for the amendment and we voted to bring it to the floor. I won't make an accusation of what happened. I'm just telling you this bill needs to be on the floor. It needs to be voted on and it needs to be passed. Politics need to disappear on this one and a lot of bills. This is about protecting children. This is about protecting your grandchildren. This

Floor Debate
May 21, 2019

is about giving teachers authority of their classroom, something that is normal and we all think it's happening, but it is not.

FOLEY: Time, Senator.

GROENE: Thank you.

FOLEY: Thank you, Senator Groene. Senator Erdman.

ERDMAN: Thank you, Lieutenant Governor. Good evening. I listened to the comments about this being extraordinary or different or unusual. I wasn't here when Senator Lathrop was here before. But I did watch some of the Legislature back in 2001 through 2009. My son was here. And the first year that he was here his priority bill was pulled from committee; made a pull motion and brought his priority bill to the floor. As I talked to people who have been here for a long time, their information they've shared is that in the '80s and thereabouts it was more common than it was as the process moved forward. So we're talking about an opportunity to bring this bill to the floor for discussion. I had a call from a superintendent this last week and the comment was, I don't want to be the one to sit across the table from a set of parents and say your son or daughter was removed from the classroom. I also heard there was an instructor, a teacher, who would ask little Johnny in the 5th grade to do reading and she went back to take the book out of his desk and he slammed the desk on her hand and broke her hand. And she called the principal and the principal said-- took him ten minutes to get there-- and the principal said, it's only 45 minutes left in the class, you can go to the doctor after class dismisses. There are issues that we need to deal with. Senator Groene has worked on this bill for three years. What he's trying to do is make the classroom safe. One day when I was doing a town hall meeting in Banner County, a little restaurant there, there were eight or ten of us in the corner and we're talking about education. And there was a teacher there from Lexington and she asked me if she could make a comment. She heard we were talking about education. And I said, you can. She said the problem with teaching kids to read is not that they can't learn; it's at the disruption in the classrooms. And it's the instruction that she has that when a child acts up they take the whole class into the hallway while the child is then calming down or someone comes to take care of the issue. So they lost a whole period, maybe an hour of instruction. That's the problem. And so what Senator Groene is trying to do is trying to get control of the classroom so people can learn, people can advance, and people can accomplish what they need to in education. So this is not unusual. I am for the pull motion and I appreciate Senator Groene's work on this. He has described to you what happened on the amendment, 7 to 0 to 1 seems like a pretty significant majority. And if I have any time left, I would yield that to Senator Groene. Thank you.

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

Floor Debate
May 21, 2019

GROENE: Thank you. My wife keeps texting me to be calm. I think I am. Senator Murman one time gave me advice when people said I talked too loud, very wise man. He texted me. He said, do you ever think about pulling that mike about four inches away from your mouth? It works. [LAUGH] So as I said, we followed all the process. We worked as a committee and we, as Senator Pansing Brooks said, we got all of the-- the-- the-- she did, I didn't, got all of the stakeholders together. But I do disagree with her on one thing. We would not get anything done in this body on major legislation if every single stakeholder had to be on board. I will remind you that there was a bill, I think the amendment was AM1803, one of those amendments. And by the way, I need to correct Senator Walz too. We only execed on the bill once and we only did it for like a half hour. We did not spend a lot of time on it in Exec. We did it once. We came up with, you know, the results. I spent time on it, like we all do. If we really care about our bills, we spend a lot of time on it, and the committee was involved on it. As we said, with a 7-0-1 vote, you'd think the committee would be involved on the amendment. So don't let them scare you, folks. This is just normal business in-- in the legislative process, as they say, of making sausage. The pull motion is part of it. There's a reason when you read the Rule Book it's there. And the reason we stand here tonight at 8:00 is because of that, it's to make sure the process works, that the people's work is done.

FOLEY: That's time.

GROENE: Thank you.

FOLEY: Thank you, Senator Groene. Senator Matt Hansen.

M. HANSEN: Thank you, Mr. President. Good evening, colleagues. Colleagues, I rise in opposition of the pull motion to LB147. I have concerns with LB147, but I'll focus on the pull motion for now. In terms of process, I just wanted to be clear, because we've been touching about it. Pull motions, yes, pull motions do exist, but I-- I would hardly characterize them as normal. They're an option, of course. I'm not denying it's in our Rule Book. But as it has been kind of done to death in this, in this evening already, there have been, in my five years here, there have been three pull motions that I remember. They've all come from Education Committee. And with the first two bills, a year later, either with the same bill or with a new senator introducing a similar bill, that issue has been passed with compromise and with compromise that was based on the concerns that was raised on the pull debate and, I presume, in Education Committee, although I don't serve there. There's a path forward for all of these bills, and there's been a path forward in the past, and it's just for some reason we have not been able to do the work to actually get to the compromise and to the understanding. Senator Groene might very well have-- have the votes to-- to do his pull motion tonight. I presume that doesn't give him the-- but I presume not with the votes to overcome all the continuing objections in LB147. So we're going through this

Floor Debate
May 21, 2019

whole process to do a pull motion to grow into what I am sure is a filibuster. So what's the point? Why not just take the concerns and actually build to something in committee? I feel strongly about pull motions. I understand why we have them. If you all remember, I actually have proposed rules in the past to raise the vote threshold for pull motions if they continue to be this common, and one a year is uncommonly common. If they continue to be this common, that might be something I look at introducing again with the Rules Committee and we can have a discussion, kind of regardless of the bill, on how we feel on pull motions. But we have this whole process as a Legislature. Everything we do is based upon years of experience and-- and-- and understanding and recommendations. That's why we have committees. That's why we have these specific 14 committees with this subject matters. I have an old, I think it's from the 1980s, committee roster taped to my desk drawer, and we've completely changed committees since then. There used to be the Committee on Miscellaneous Subjects, and the Constitution Revision Committee, and we've decided, no, we want to have these committees with these subject areas so that those members on those committees can build up subject matter expertise and use that subject matter expertise on bills in that committee with that subject matter, and we're going to stick with that. And so when there's a committee that's divided on a-- on a-- on a-- on a bill where there seems to be opportunities, at least to move forward but we haven't gotten there yet, pulling it out as opposed to just continuing to discuss and rely on our committee process seems like a misstep. And for that reason, I'd ask you to oppose the, regardless of how you feel on LB147, I-- I would ask you to oppose the motion, MO93 and I would yield the balance of my time to Senator Pansing Brooks.

FOLEY: Thank you, Senator Hansen. Senator Pansing Brooks, 1:45.

PANSING BROOKS: Thank you, Mr. Lieutenant Governor. Thank you, Senator Hansen. I just wanted to clarify that the reason the vote was 7-0 and I didn't ever indicate that we were going to vote for the bill. What we were doing was voting for the better amendment to replace the green, to become the white copy of the bill. So I think that's done quite often. There was no indication that-- that by voting for that amendment that that meant we were going on. In a number of committees and even on the floor, people will vote for the amendment because they think that makes the bill better, and then-- and then not. So, again, I'm-- I'm sorry that this is-- this is going on in this factor and in this way, and becoming "semipersonal." That was not the intention. The intention is to move forward with all the Education members, with the advocates who are-- are fighting for children, and to have a study this summer, because I do agree that Senator Groene has a lot of passion in what he's doing and that there can be some solutions to all this. And we have had this placed on our doorstep every single year and I, for one, am tired of it, and I think others are too. And this needs to be solved by the educators and the Department of Education and others. And that's what that study is for that I placed into-- that's I've filed today and 40 senators have signed before I got too tired to keep going around. And, again, I'm happy to work

Floor Debate
May 21, 2019

with Senator Groene. I think we can work together and with others on the Education Committee to make strong, strong policy happen. So thank you, Mr. Lieutenant Governor.

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

WAYNE: Thank you, Mr. President. Thank you, colleagues. I guess I have a slight different take. I've been going back and forth. But I want to talk about the issue. So-- so part of you guys understand that I'll vote for a filibuster because I think this body has to have a big conversation. And here's the reality when it comes to discipline in at least the school district that I used to represent: one, it is discriminatory; and two, our teachers are fighting for their lives. So I'm not going to go into all the stats on-- on everything, but at the end of the day, I was on the school board with Senator Vargas when we were notified that OPS received a sanction from the department because we suspended more African-American males, particularly African-American special ed males, to four to five times the rate of everyone else. I've introduced bill after bill regarding discipline in the Education Committee, and it hasn't come out. And how I view this as a topic is, if this bill was on the floor, I don't think it has 33. But it gives me opportunity to have a bigger discussion about discipline within our public school system and the fact that it has a true prison to connection [SIC] pipeline that we don't talk about because we don't get to hear about it. It's stuck in Education Committee. But the fact of the matter is when I was on the school board, Omaha Public Schools and Omaha Police Department ticketed and-- and-- and-- ticketed and committed a-- filed charges against over 800 middle school and high schools on school ground-- talking about prison pipeline. Two thousand fifteen, Senator Vargas, myself, and President Marque Snow, we wrote the entire discipline manual. And you know what we found out in 2016 after we left? That reassignments in Omaha Public Schools only occurred if you were a minority. Every reassignment in 2016 was a minority. Not one Caucasian got reassigned. So to me, I look at this pull motion, this bill, if it were on the floor, I wouldn't probably support it as it is. I would try to amend it. I would try to make things better. But there are issues around our discipline. I got a text message from a relative who has gotten two black eyes from a 1st grader, and that kid is still in her classroom. They can't remove 'em. Teachers are afraid, if they haven't went through training, to even be able to do anything. Why does that bother me? Because there's 23 other kids in that classroom who can't learn. And we have to force this conversation. And I don't necessarily, again, if the bill was on the floor, would I support it as is? No. But I have to force the conversation. To me, I understand that the teachers' organizations supports this, but the administrators backed off and maybe this bill will die here and-- and still be stuck in committee. But we have to force something because the fact of the matter is we can't continue to segregate our schools by discipline. And if you don't believe me, walk down to the pretty Central High School in Omaha and ask where all their honor courses are. Yeah, they're on the top floor so they can separate kids out because they don't want to deal with the discipline issues. So, yeah, I'm a little passionate about this because it affects directly my community to the prison pipeline. Do I agree with the current case law and this codification of current law and that's what this is,

Floor Debate
May 21, 2019

codification of current law? Maybe not. But just like property taxes, just like some of these other big issues, I'll put it on the floor. And if I have to kill it on the floor, I will. But there has got to be a conversation in this body about our prison pipeline and about our discipline in the school system. I have bills in Education. Should I put a pull motion in? Maybe. But what I do know is--

FOLEY: One minute.

WAYNE: --my colleague, Senator Chambers, over the years, has put pull motions in and I didn't see a flood open up. And to Senator Lathrop's point, this is short-sighted, well that happened when our state decided to go after Senator Chambers and put term limits in. Because I only have eight years on a good day, four years on the best day to get things done, that doesn't mean I'm trying to destroy the institution. But at some point we have got to have a conversation about our data and our suspension rates and our discipline. And if I have to maybe hijack a bill in the process in year four, because this ain't coming to the floor this year, I will. So I'm-- I keep going back and forth because I'm tired of this body not having conversations about big issues because they're bottled up in committee because we're afraid to have the debate on the floor. I'm ready for the debate--

FOLEY: It's time, Senator.

WAYNE: --and I'm ready to kill the bill if I need to. Thank you, Mr. President.

FOLEY: Thank you, Senator Wayne. Senator Brewer is next in the queue but he's indicated he's going to waive his opportunity, which takes us to Senator Ben Hansen.

B. HANSEN: Thank you, Mr. President. I am in favor of the pull motion that Senator Groene is putting forth for his bill, and I'd like to talk a little bit about pull motions. I-- I know I'm new here and so I know I got some stuff to learn about motions and-- and how things work and what's kosher and what's not. But I think to hammer Senator Groene for doing something that's within our Rule Book, when I think recommitting or bracketing is-- seems like an unusual motion to put forth as well but we seem to use that quite a bit in the body and nobody really says anything. And so now Senator Groene goes ahead and does a motion that he's putting forth and we hammer him nonstop about it's unusual and we shouldn't be doing it and nobody ever does it. But just like he said, if somebody else decided to do it, it was important to them and they thought it was necessary, I think it's-- it's worthwhile to listen to them and-- and have them put forth an amendment like this. So, again, maybe it's 'cause I'm new here. I think there are lots of unusual motions that we seem to take advantage of all the time and nobody says anything. And so with that, I-- and I do like the-- the discussion that we are having about school discipline, some of the

Floor Debate
May 21, 2019

discussion that we are having anyway. And so I appreciate what everyone is saying. And so, with that, I'd like to yield the rest of my time to Senator Groene. Thank you.

FOLEY: Thank you, Senator Hansen. Senator Groene, 3:25.

GROENE: Thank you. Thank you, Senator Hansen. My staff gave me the final report. Thirty-four states have similar legislation, thirty-four. Some have both. Some have either the-- they can physically intervene with immunity or they can remove a student from the classroom. This is not abnormal request. Thirty-four states have it. To Senator Wayne's comment, if he would have brought-- brings me five votes, we'll Exec on his bill. I think I mentioned to him that one of his bills would fit very well into-- into LB147. And I agree with him, no-- no young people should be denied an education because one student acts up. So read, read the amendment, folks. Senator Walz said about training, they have no training. The administrators fought us on this, this in AM1750: Each school district shall adopt a policy regarding the use of physical contact pursuant to this section, including training require-- requirements relating to the use of reasonable physical contact. We put training. That's something that isn't happening in a lot of schools. Senator Chambers mentioned in my district a very prominent individual who taught for 32 years got fired and then the administrator got fired. I-- I-- I'd heard he got frustrated and the child was running around and causing a lot of problems and hitting on other kids, and he, the kid, child, threw himself on the ground and he grabbed him by the ankles and pulled him to detention. He had no training. He had to react. Our bill says you need training. Senator Morfeld said the-- the Supreme Court in the Daily case said reasonable, reasonable. But what's reasonable? This amendment says you can use discipline to be held liable for harm: No administrative, teacher, or other school personnel shall be subject to professional, administrative discipline or be held liable for harm caused by an act or omission by an administrative, teacher, or other school person-- personnel relating to the use of reasonable physical contact. Then it has a whole list of what is not reasonable. It's not in statute now. Number one, gross negligence; a conscious, flagrant indifference to the rights of safety of the individual who was harmed; or willful, criminal, or reckless misconduct, including misconduct (A)--

FOLEY: One minute.

GROENE: --that constitutes a crime or [SIC] violence or as defined 18 U.S.C. 16, as such section existed on January 1, 2019; that involves a sexual offense listed in subdivision (1)(a) of section 29-403 [SIC] for which the defendant has been found to have violated a federal, state civil rights law-- there you go, Senator Wayne, it's in this bill, do not discriminate in your discipline-- that occurs while the defendant was under the influence of alcohol, liquor or drugs. This is not in statute now, folks. It will be when AM1750 is passed. And to Senator Hansen's comment, Matt Hansen's, that two bills were pulled before, yes, but Senator Linehan's was not a

Floor Debate
May 21, 2019

new bill the next year. That was amended on to the committee priority. She worked hard and so did Pansing Brooks, Senator Pansing Brooks to make it better over the interim. That bill was still there the next year, like this one will be, and we can work on it on the interim, Senator Wayne and I.

FOLEY: That's time.

GROENE: That bill was amended and passed the next year.

FOLEY: Thank you, Senator Groene. Senator Kolowski.

KOLOWSKI: Thank you, Mr. Chairman. I strongly oppose this pull motion. The Unicameral has a long history of respecting the committee process. A pull motion of a committee priority bill by the Chairman of the committee is highly unusual. If a majority of the-- a committee couldn't advance the bill, why does it even have a committee priority? There could have been plans to add other bills into it and to use it as a committee bill. There could have been hope that compromise language could be worked out, which it almost was, but in the end the agreement was broken. Think about why the Chairman would attempt to pull-- a pull motion when a majority of the committee voted against the bill. It is certainly not respectful to the committee process. It is a tactic that indicates an abuse of power of the committee process by the Chairman. Clearly, the topic of the bill needs to be reviewed and a solution found. However, the proper place for that discussion is not the legislative floor. The proper place for this discussion is in a school board meeting or the Department of Education, not here. You do not want this in state statute. It doesn't belong there. It can be dealt with outside of legislation. I personally think the reason for this bill is a breakdown in the communication between school administrators and teachers. There are several avenues to address this issue outside of the Legislature. There is also a safety issue that would be created by using the language of this bill. Teachers and administrators need better training on restraining students. De-escalation techniques and consideration of the mental state or the disability of individual students are topics that come into this discussion. When a student acts out, it is not because they are inherently bad. It's a cry for help. They are overwhelmed and in distress. Don't make the school a place that adds to the problem instead of solving it. Two things Senator Groene said that I would like to get corrected. You mentioned people were obstructionists, getting in the way of the success of this particular bill. If my 41 years in education at multiple levels, including a building "principalship" for 15 years, is an obstructionist behavior, then you have no clue of my career and what we were able to accomplish in the Millard Public Schools during that time. Secondly, you said, and were very sure of yourself in saying this, that the teachers in the classrooms are the ones who are being hurt or injured or anything worse than that. I would remind you that in the late-- ten years ago there was a teacher, an assistant principal, shot and murdered at her desk at Millard South High School, and the

Floor Debate
May 21, 2019

principal right next door took three slugs before the person ran out of the building. He was wounded; she was dead.

SCHEER: One minute.

KOLOWSKI: If you think it only happens in certain situations, you're the one that's wrong. Thank you.

SCHEER: Thank you, Senator Kolowski. Senator DeBoer, you're recognized.

DeBOER: Thank you, Mr. President. You know, the question that people ask me most is, what is most surprising to you about your first year? And, yeah, everything, I hear from behind me, is a fair response. But the thing that I think is actually the most surprising to me is just how much the committee structure really makes a difference in this body, how little time we have to really dig into each and every bill that doesn't come through our committee, and how much time the committees really spend, the committee counsels and everyone trying to figure out how to make the best bills possible. So that's been pleasantly surprising to me. The-- the part about not having as much time on every bill that doesn't come through your committee is a little sad, but-- but that part has been pleasantly surprising to me. So we hear pull motions are regular and that that's-- maybe that's true. But this is my first year and so, for me, pull motions aren't regular. This is the first one. And I can see a very strong rationale to prevent pull motions from being a regular thing. Now, I don't know what happened in the committee. It seems that there are-- is a disagreement about whether or not seven votes were here or not there or what. I don't really have any basis for evaluating those claims so I guess that can't weigh in to one of the factors that I consider. I also don't get to the merits of this question. I think that there are a lot of really important things that need to be discussed around school discipline. I'm from a long family of teachers. We say it's the family business. And I have been in the classroom for I think it's 16 years myself. It's college classroom so it's a little different. Nevertheless, it seems to me that the pull motion itself is the issue that we're debating right now, not the underlining merits of the bill, regardless of the fact that I could be sympathetic to some of the underlying merits. So, for me, this is about the pull motion and I intend, not just in this instance, but in every instance, to be very, very, very, very cautious about ever using that. There are, of course, rules for it. It is an option. But I imagine that the use of this option comes in extreme circumstances, not in the circumstance where someone's in the room, right, not for-- not just the-- the committee Chair but other members of the committee are there. They have the opportunity to make their case heard, not for a 4-4 vote. I understand maybe it's very frustrating in Education. I don't actually totally get it but-- because I'm not there. So I'm not trying to say I understand anyone else's experience, but it may be very, very frustrating. It's frustrating for me. I have a bill that I care very much about that's also stuck 4-4, and I understand that and, gosh, I wish it wasn't. But that doesn't

Floor Debate
May 21, 2019

mean that there's anything I can do about it. I mean I suppose I could do a pull motion, too, but I think that that leads to chaos. We have to respect this committee structure, the diligence of the people who work to make our bills better, to make sure that we are thinking very, very carefully. I mean if we just passed everything through without the committees, I don't know how we would do any kind of diligence in determining whether or not--

SCHEER: One minute.

DeBOER: --a bill is-- is appropriately vetted, is appropriately talked to all the different folks. This is important work they do. And I'm-- I-- I understand the frustration of not getting something that you care very much about. I understand the frustration of wanting to do something now. I-- I think we should work on this issue, I absolutely do. I just don't think this is the way. Any remaining time I yield to Senator Walz.

SCHEER: Thank you, Senator DeBoer. Oh, Senator Walz, you have 25 seconds. And she waives the 25 seconds, so thank you both. Senator Bolz, you're recognized.

BOLZ: Thank you, Mr. President. I think that the dialogue this evening has been thoughtful and thorough, but we will be debating this for a period of time and so I wanted to add a few additional thoughts just from my experience being one of the more senior members of the body at this point. I do think it's worth noting, and it's on page 22 of your Rule Book, that any senator may move that a bill be placed on General File 20 calendar days or more after the committee hearing if the committee has not taken final action of the bill. So one question I think we should all ask ourselves is, is this bill more important than my priority bill? Is it more important than the bill that was second in line as my priority? And is a bill that we haven't developed compromise on more important than my priority bill or my second priority bill or my third priority bill? And I-- I think that's a-- it's a fair question to ask in terms of weighing this decision. I think a-- a-- a bill that, to Senator Hansen's point, probably does not have a pathway to passage does not take priority over the other things that I have chosen for this body to debate this year. The second thing I think is worth thinking through is we have changed the debate rules this year, at least from my first couple of years in the body, and we have six years on-- six hours on General File and fewer on Select and Final. That is far less than the-- the first few years I had in the body of debate in order to get to a cloture vote. And we did that in the name of efficiency and in time and in the effort to get bills across the finish line. So, is debating this bill more important than getting all the other bills on our agenda across the finish line? It certainly is not, in my opinion, worth stepping in front of the other bills that I have worked on and developed compromise on and is-- are on track to get across the finish line this year. The third question I would say is that we've made two bills this year Speaker's major priorities: the budget and now LB720. So we have given the Speaker more authority to order amendments. We've added that authority to his authority to

Floor Debate
May 21, 2019

order the agenda. And so the-- the thing that we do when we allow pull motions to move forward or get into the habit of allowing pull motions to move forward is that we usurp the Speaker's agenda. We step in front of the Speaker's authority. And-- and is that-- is that how we want to run this, this body? We've put our faith in the Speaker. I-- I think he was unopposed and unanimously supported. And so is this a motion that we should consider given the faith that we've put in the Speaker not only in the way that we're running the Legislature but also in the efforts that we've made to even add to his authority this year. Why, why would we question his agenda-setting abilities at this point in time? So at the end of the day, I think it is perfectly within Senator Groene's rights within the Rule Book to pursue this pull motion. I sound a little bit like my mother when I say this, but just because you can doesn't mean you should. I don't know that pull motions are in the body's best interest. I don't know that they are the most diplomatic strategy to move forward. I don't know that they illustrate the respect and the integrity that I think is so important to making this body represent the state and move forward with good policy decisions. You know, I think when we use the rules and use the rules to move forward things that are in the best interest of the state, we respect this institution and we respect each other. I think if we spent some time on it, you know, if we spent some time dialoguing with--

FOLEY: One minute.

BOLZ: --Senator Chambers, we could come up with a lot of different ways in which the rules could be used under the Rule Book that wouldn't necessarily contribute to efficiency, wouldn't necessarily contribute to diplomacy, wouldn't necessarily contribute to the best interest of this state. For example, I could rise on a point of personal privilege and talk about my new shoes for the rest-- you know, for-- for a period of time. That's not necessarily the best use of the rules. Is it allowed? Yes. Is it-- is it appropriate? Is it constructive? Is it diplomatic? No. So I rise in opposition to this pull motion because I think it is not import-- more important than my priority bill. It is not more important than the other things that are on the agenda. It's not necessarily good strategy to try to get in front of the Speaker's agenda. And I don't think that it contributes to diplomacy. Thank you, Mr. President.

FOLEY: Thank you, Senator Bolz. Senator Groene.

GROENE: Thank you, Mr. President. To correct the record, Senator DeBoer, I did not say it was common. I said it was common, a pull motion was, historically on an annual session basis, that one to two pull motions. And to collect-- correct Senator Lathrop, too, I did not say three or four. I said one or two. It is common historically on an annual basis for pull motions to happen. That's why the pull motion exists. Senator McCollister stood up and explained why he would never support a pull motion. I have the record here on Senator Brasch bill, LB218, on the civics bill for pull motions: McCollister, yes. Senator Kolowski said the bill failed in committee, did not have

Floor Debate
May 21, 2019

the-- a majority of the votes. The vote was 4-4 after a 7-0-1 vote was taken on-- on the amendment to replace the white copy of the amendment. So where are we? Why a pull motion? Because it's good for Nebraska. This is not just some bill that somebody has for a priority. This is about children's safety, teacher safety, personnel. And by the way, it's no longer just teachers. The-- the interests and the stakeholders said, no, we want to make sure it's school personnel, that if the janitor seen a guy, a kid walk into the room, into the hallway with a gun, that he could react and know that he would be-- the people in Nebraska had his back. Or a-- the cook. And, yes, they need training. We put that in the statute, in-- in the amendment. So it's-- it's school personnel is what it covers. As I said, 34 states do something very similar to this. We are an outlier. And it needs to be corrected. Also, there's no animosity in our-- in our committee. We differ on this issue. We differ on some other issues, like every committee does. And anybody is welcome to pull their bill if they can show the Speaker 25 votes. I did. I hope they're all here and a few extras. This could sit here-- we're towards the end of the session-- just like LB651 did, the reading bill, and it could sit and we could have maybe three hours, and I won't try to get the 33 votes. But the public will hear a good, strong debate, better and longer than this one. And then we will work over the session because now we have a deadline, just like the reading bill. As we look back on that bill we say, really, it was never in statute that the number one requirement of a public school is that a child can read by the 3rd grade? Now it's accepted. I hear administrators tell me we're working really hard on reading programs. Once you give them direction, they will follow it. It is the same here. It needs to be done. I will make an assumption why, as we all do on this floor, why the pull motion exists by our forefathers in this body. I don't think it had anything to do with a Chairman, because in the pull motion it says if the-- if the-- if the committee acts on it prior to the pull motion being here, well, the Chairman is still in charge. He can-- he can hurry up and have a-- a Exec Session and pass it out or not. It's not about, as Senator Williams said as his assumption was, about a-- a committee Chair not having a hearing. My presumption is, it had to do that we're an nonpartisan body and body never wanted a clique of a partisan group to control a committee. I think that's why the pull motion exists.

FOLEY: One minute.

GROENE: That's why I think it exists. You have a political group, through the-- the-- the-- the legislative process, through the Committee on Committees, control a committee, because it is important to their political philosophy. I think the pull motion exists to make sure this body stays nonpartisan and a small partisan group banded together cannot disrupt the committee process. That's my theory. I think it's more fitting to the truth than worrying about one individual on a committee called the committee Chair, because there are checks and balances on that committee Chair. As I said, read the pull motion. Committee Chair is still in charge right up to the very minute this hearing, the pull motion, was heard in the floor. So that's nonsense.

FOLEY: That's time.

Floor Debate
May 21, 2019

GROENE: Thank you.

FOLEY: Senator Howard.

HOWARD: Thank you, Mr. President. I rise in opposition to the pull motion. Kind of don't know where to start. I think one of my biggest fears in taking on a leadership role in this body is that the tenor of leadership has really changed since I started, since my mom was here. It was not sort of a committee leader rule that you needed to show five votes. That is new. That's new for the past couple of years. In my committee, we sort of do it this old traditional way, which is we Exec on every bill about a week after we hear it. If we have questions, we fix them. And just to be really clear on the numbers in Health and Human Services, because, Senator Groene, I know that you're going to be curious about this, in the Health and Human Services Committee, we heard 64 bills and we only have 27 that are still in committee. Sixty-four bills, we discussed every single one of them. I know we discussed every single one of them because we execed on every single one of them. And the ones that could be fixed came out; the ones that couldn't be fixed stayed in. We actually have one for Senator Chambers. He keeps forgetting that he has a bill in my committee. And we're hoping, we've fixed it, and we're hoping that it will be able to come out. But-- but we do this to make quality bills for this floor. We don't do this because, oh, you had five votes. You could have a crummy bill and have five votes and then it comes to the floor and you only have five votes on the floor. The work of the committee is really to fix the bills to make them work within our statutes and work within the things that we are trying to accomplish. I also am concerned about setting a precedent on committee priorities. I didn't name a committee priority that wasn't an unanimous vote, that we didn't talk about in my committee as being something that was important for the state to accomplish in regards to Health and Human Services. We agreed on those collectively. It wasn't just me sort of being a, you know, a dictator and deciding which ones we'll be doing, because we are a team. My committee is a team. I actually have this-- the best committee in the building. I did ask my mom if she remembered a pull motion. She worked here for eight years. She only remembered one and it was about vaccines. And it came out, but then it wasn't successful, like the bill was sort of just a bust after that. And then I do want to clarify, Senator Groene, I have asked you to Exec on my holocaust bill. And when we discussed it you said, OK, the next time we Exec, we'll Exec on your holocaust bill. And I believe you had an Exec Session on this very bill and I don't think that you had the opportunity to Exec on my bill, on my holocaust bill. And so just to be very clear, I have asked you to Exec on it. I do believe that I have the votes and I would hope that you would consider it because it is quite a good bill and it's something that we should be thoughtfully considering on the floor. And with that, I will happily yield the balance of my time to Senator Walz.

FOLEY: Thank you, Senator Howard. Senator Walz, 1:45.

Floor Debate
May 21, 2019

WALZ: Thank you, Mr. President. Senator Murman talked a little bit on the floor a while ago and I know that he is a person who is very concerned about kids, especially kids with disabilities. And I heard Senator Murman say earlier that this bill will allow a teacher to intervene; that teachers feel helpless and vulnerable because they are not equipped to deal with problems in the classroom. I want to know how this bill helps equip our teachers to deal with the problems in the classroom. In fact, I don't feel this bill, this bill equips our teachers at all. And I want to talk about that moment in the classroom, that moment when something happens. This bill allows a teacher to intervene in any way they need to, but this bill does not train or equip a teacher on how to intervene. I love our public education system and I love our teachers and I will do whatever I can to support them. But this bill does not support positive behavior intervention whatsoever. Again, I feel that this bill--

FOLEY: That's time, Senator.

WALZ: Thank you.

FOLEY: Thank you, Senator Walz. Senator Geist, next in the queue, she waives her opportunity. Senator Wishart. Senator Wishart. She waives the opportunity. Senator Linehan.

LINEHAN: Thank you, Mr. President. I just-- maybe I'm-- somebody can correct me, come over and put a note in front of me if I'm wrong here. But my recollection from our committee meeting was almost everyone was on board. The Disability Rights group agreed. They weren't going to be for it, but they weren't going to push against it. But the administrators walked out. So this is about the administrators not supporting the bill. It's not about teachers not supporting the bill. Teachers are very much aboard on this bill. And my understanding-- again, maybe I misunderstood this-- the reason the administrators don't want to support the bill is if you look at page 3, Section 5(1), "An administrator or administrator's designee shall immediately remove a student from a class upon request by a teacher or other school personnel if such teacher or other school personnel has (a) followed school policy in requesting the removal of such student; and (b) such student's behavior is so unruly, disruptive, or abusive that it seriously interferes with the learning environment and the opportunity for other students in class to learn." This is about teachers having students who are disruptive and unruly or seriously endangering other students, and the administrators aren't helping the teachers. That's why they're for this. They feel like they're not getting help and support they need. The reason we need to pull this bill is once it's on the floor everybody will get very serious and we'll find an answer to this. I've heard two or three times that there's nothing about training in here. There is. It's on page 2, section [SIC] (3). It states, and this is pretty scary this isn't-- that we have to put this in law. I'll agree that it's scary. But it states: Each school district shall adopt a policy regarding the use of physical contact pursuant to the section and it will include training and requirements relating to the use of

Floor Debate
May 21, 2019

reasonable physical contact. And it goes on to very explicitly say what they cannot do. This is to help the people in the classroom, the teachers, the paras, the janitors, whoever is in the classroom there, help give them the training and the guidance they need to keep themselves safe, their colleagues safe, and their students safe. We-- we have-- and it's both Senator Pansing Brooks and Senator Groene have worked very hard on this. There have been multiple meetings over months, ever since we came into session going back last year. This is not a subject that we haven't talked to all the stakeholders. It's not a subject that people don't understand is a problem. There was another amendment that was in this hearing, it was what the administrators said they would live with. But the teachers did not agree with it, nor did the other stakeholders. So what we did in the committee, substitute the white copy for the green copy was what everyone agreed to except for the administrators. And I'm not even sure how many administrators we're talking about, frankly, because other bills I've worked on this year, it seems like there only needs to be two or three, and if those two or three administrators are from big schools and they have enough people that they have-- they represent enough people that, therefore, represent-- that's all they need. You need like two or three people in the whole state of the thousands of people that work in public education in state of Nebraska, two or three are able to stop this and other stuff because they don't agree. The bill needs to come to the floor. If we're serious about helping teachers, we need to get it to the floor to show that we're going to do something and then everybody will get serious and figure out how can help our educators. Thank you.

FOLEY: Thank you, Senator Linehan. Senator Murman.

MURMAN: Thank you, Lieutenant Governor. And I'd like to thank, being a member of the committee, I'd like to thank Senator Groene and all the members of the committee for their hard work on this bill. I do feel this is an important enough piece of legislation and it-- and has-- as has been mentioned many times, it's been around a long time and for several years and I think it's time that we have this broader discussion on the floor. So for that reason, I do speak in favor of the pull motion and the underlying bill. I think we need this legislation, as I mentioned before, to allow teachers the opportunity to do something immediately when a serious enough problem happens or it's a serious enough disruption in the class occurs that they need to react immediately. From some of my e-mails from teachers, I feel that there is definitely pressure on the teachers to do nothing sometimes in these situations or quite often in these situations. Teachers are-- are hesitant to react because they're, for one thing, they're afraid of lawsuits. So just by doing nothing, they don't have as big of risk of a lawsuit as if they do react immediately. So-- so I do think for that reason alone, it's very important that we have this legislation that will allow them to react immediately and do what is necessary to respond to the disruption in the classroom. And I'd like to say the thing that really convinced me in-- in the committee to back this bill is there was a testifier in committee that said when a three-year-old is hitting other kids and continually disrupting the class, it was better not to pull them out of the class because that is a mental health problem. A three-year-old being disruptive in a class, they're assuming that's a

Floor Debate
May 21, 2019

mental health problem. And they said by pulling the student out of the class, you would be lessening the chance that that student would graduate and you would be increasing the chance that that student would be in our prison system later in life. Well, I'd like to submit that ignoring the child, ignoring what's happening in the class decreases the chances for that child to graduate and increases the chance that that problem will only get bigger, will increase as that child gets older. I think we're doing that child a tremendous disservice by doing nothing and showing that child, and not-- not only that child but other "childs" in the-- other children in the class that this type of behavior is acceptable. And as was mentioned many times in the debate, an IEP, by having this-- having language in an IEP, that would prevent problems with special-needs children being specifically taken out more often than-- than other-- other children.

FOLEY: One minute.

MURMAN: So thank you. I would also say that the amendment was replacing the green copy of the bill, so I assumed also in committee that since the amendment was replacing the bill that it would be passed out of committee also. I would like to yield the rest of my time to Senator Groene. Thank you.

FOLEY: Thank you, Senator Murman. Senator Groene, a half minute. I think he stepped-- oh. Fifteen seconds.

GROENE: I think we had a good, honest debate on this and it remained civil. And I'd appreciate a green vote on MO93. Let's have a longer debate on the floor on General File. Thank you.

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

SCHEER: Thank you, Mr. President. Colleagues, just a heads up in relationship to what to expect tomorrow. Looking at what we have to finish, I don't see any way that we will be done probably before 10:30 tomorrow evening. So, if you are thinking about if you're wanting to have a room here tomorrow night, it will be later than today, without question. So just a heads up that you can expect a relatively long day tomorrow. Thank you, Mr. President.

FOLEY: Thank you, Mr. Speaker. Senator Pansing Brooks.

PANSING BROOKS: Thank you, Mr. Lieutenant Governor. I just want to quickly say that my friend Senator Linehan talked about everyone, except the administrators, were on board this second amendment or this amendment that's been put forward. But also, all the child advocates that worked on it were also neutral. So that's a little bit hard in that regard to come out and say,

Floor Debate
May 21, 2019

OK, well, all these people voted on it, part of them left, part of them could only give us a little wink and a nod that it's better than how bad it could be. But I really want to thank all the people that worked on this. Again, I want to thank legal counsel, Amara Block; I want to thank Senator Groene for his passion. I want to thank the administrators, the teachers, all the people on all sides, the advocates, the Voices for Children, Disability Nebraska. Everyone came together in good faith. And I think that's what can happen this summer with a study. The other last thing I wanted to say quickly is that I'm learning a really good lesson today: pull motions. So you have three hours to discuss what you want to do, and you only have to have 25 votes to pull out that motion. So we've had three hours and then we get three hours more on the floor, so then you get 33. So this is the way we can get to six hours, my friends. And then you get three more after that so it's actually nine hours if you can show 33. So again, if we want to continue to do this, three hours, show a vote of 25. Then you get three more hours and show your 33. And then three more. This is a bad precedent, except in extreme circumstances. Thank you, Mr. Lieutenant Governor. With that, I'd like to give the rest of my time to Senator Chambers.

FOLEY: Thank you, Senator Pansing Brooks. Senator Chambers, 3:15.

CHAMBERS: Thank you, Mr. President. And it's appropriate that I be the last one to speak because you all are going to hear a lot from me. And I'm going to tell you how you're being played. This bill is going nowhere. It has nowhere near 33 votes. Senator Groene is thinking only of himself and what he wants to tell people back home. Some of you have more skin in the game than he has. Some of you, your integrity is at stake. You think by supporting him, he can deliver some bills to your-- your-- votes to your bill. He might lose you some votes if you vote with him. This is crazy. This bill is not going anywhere. He knows it's not going anywhere. He knows it's not going anywhere. It won't appear on the agenda if it comes out here. Senator Linehan knows better. She's a Chairperson. They stand up here and talk this stuff that makes no sense whatsoever and it casts doubt on their wisdom on other matters. Now this is delivering the rest of the session into my hands, if I want to take it, and Senator Groene can't stop me. Let him deliver you all from me. Let him tell you that's what he can do. He's playing you all for the suckers. It's his committee. He's undermined his own committee. What kind of integrity is that? You're on a ship about to go into combat and your captain degrades all of you, makes you look like a bunch of Keystone Kops. That's what he's doing. He doesn't have any respect for you. And then he has the nerve to say there's no animosity on the committee. He has sown animosity by the way he has called out specific committee members and attacked them. Then, like President Trump, he wants to say there's no animosity. He forgets what he said. He is not an example to bring a bill like this. He's the kind of person you'd need a bill like this against. Look what he thinks of your own rules. Many things can be done under the rules. There are things that I could have done in the past that I didn't do, and I always function under the rules. So the rest of the session, whatever I do, I'll just say this is under the rules.

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

Floor Debate
May 21, 2019

FOLEY: One minute.

CHAMBERS: Now those of you who have something that means something to you, you can talk about discussing something like a debate if you want to, but it's going to go beyond this evening. Count up the cost. What are you risking to support something that's not going anywhere? It won't appear on the agenda. Why are you going to bring it out here? Because you're foolish and you're silly. And I'm saying it as strongly as I can. So whatever I do the rest of the session, you had warning. Don't talk to me about what you can't get done. Property tax means nothing to me. Nothing the rest of this session do I have a stake in. You all are demeaning the integrity of this body as an institution. You are turning it into a laughing stock. Well, I'm going to play the game the way you all are setting the rule tonight. Get him-- give him the votes to bring it out here--

FOLEY: It's time, Senator.

CHAMBERS: --and I'll bet anybody 10 to 1 you won't see it again.

FOLEY: It's time.

CHAMBERS: Did you say time?

FOLEY: Yes, sir.

CHAMBERS: Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Groene.

GROENE: The question.

FOLEY: 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.

ASSISTANT CLERK: 25 ayes, 10 nays, Mr. President, on the call [INAUDIBLE].

FOLEY: Record vote's been requested. Senator Chambers asked for a record vote. Senator Chambers, the machine has been-- it's now recorded in front of the Clerk at this point. We can't read off those names for you. Senator Chambers, the-- you had asked for a record vote but the

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

Floor Debate
May 21, 2019

Clerk has recorded the vote in the machine so he-- he does not have that in front of him. Senator Groene, you're recognized to close on your motion.

GROENE: I think we've had enough debate and we all want to go home. Minds are made up. But I do want to-- one-- one thing, Senator Howard. I did talk to you about execing on your bill and I did forget to put-- put it on the agenda because it was a 4-4 vote. And I was talking to you about we need to bring it next year after the civics bill is in place because it really needs to be in that section of law. And so we'll work with you next year. With that said, that corrected the-- put the last period on it, it dotted the i's. I want a recorded-- I want a call of the house. Thank you.

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.

ASSISTANT CLERK: 31 ayes, 2 nays, Mr. President.

FOLEY: House is under call. All senators please check in. The house is under call. When we get to a vote, it will be a roll call vote in regular order, pursuant to Senator Groene's request. All members please return to the Chamber and check in so we can vote. Senator Blood, check in, please. Senator Vargas, check in, please. Senator Vargas, check in, please. All unexcused members are now present. The question before the body is the motion, MO93, to pull the bill. A roll call vote has been requested in regular order. Mr. Clerk, please call the roll.

ASSISTANT CLERK: (Roll call vote taken.) Vote is 25 ayes, 14 nays, Mr. President, on the motion to place the bill on General File.

FOLEY: The motion is successful. I raise the call. Items for the record, please.

ASSISTANT CLERK: Mr. President, your Committee on the Executive Board reports LR104 to the full Legislature for further consideration. New interim study resolutions: LR223 by Senator Cavanaugh, LR224 by Senator Morfeld. Name adds: Senator McDonnell to LB481 and LB481A.

And Senator Lindstrom would move to adjourn until Wednesday, May 21 [SIC], 2019, at 9:00 a.m.

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