

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

FOLEY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirty-first day of the One Hundred Sixth Legislature, Second Session. Our chaplain for today is Pastor Andrew Anderson of the Country Bible Church in Blair, Nebraska; Senator Ben Hansen's district. Please rise.

PASTOR ANDERSON: Let us pray. Father, I thank you for this opportunity we have to gather together with the opportunity to discuss things that matter most to us. Your word tells us that if any of us lacks wisdom, that we should seek you and ask you and that you would give us wisdom generously. Father, we pray for generous wisdom, that there would be an outpouring of your spirit, that you would enlighten our minds, and that you would unify our hearts. And I pray that you would give these men and women the courage and strength to stand for what matters most, that you would guide them, and that you would lead them and that you would direct them. Father, your word also says that in humility, we should consider one another better than ourselves. And I pray that each one would be quick to listen, slow to speak and slow to anger, and intentional to seek the betterment of the body. And I ask that you would pour out your blessing, give each and every one of these individuals favor, and give them a favor throughout this community, throughout this state, throughout this country. God, I pray for your abundance and your blessing. And I pray this all in the mighty and the powerful in the ever-present name of Jesus Christ. Amen.

FOLEY: Thank you, Pastor Anderson. I call to order the thirty-first day of the One Hundred Sixth Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

ASSISTANT CLERK: No corrections this morning.

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

ASSISTANT CLERK: There are, Mr. President, thank you. Your Committee on Education, whose Chairperson is Senator Groene, reports LB1001 to General File, LB1186 to General File with amendments, as well as LB563 and LR306, which is reported to the full Legislature for further

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

consideration. In addition to that, confirmation reports from the Education Committee to the Technical Advisory Committee for Statewide Assessment and the Technical Advisory-- also for the Technical Advisory Committee for Statewide Assessment; then the Coordinating Commission for Postsecondary Education. Your committee on Enrollment and Review reports LB790 to Select File with E&R amendments attached. The committee on Government, Military and Veterans Affairs reports LB889, LB918, LB1086, LB1119, LB1120, LB1136 all to General File. In addition, LB1055 to General File with committee amendments attached. That's all I have at this time.

FOLEY: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR324. Senator Hunt would like us to recognize Dr. Christopher Snyder of UNMC who's serving us today as family physician of the day. Dr. Snyder is with us under the north balcony. Doctor, thank you for being here. If you could please rise, we'd like to welcome you to the Nebraska Legislature. We'll now move to the first item on the agenda, legislative confirmation reports. Mr. Clerk.

ASSISTANT CLERK: Mr. President, the Health and Human Services Committee would report favorably on three appointments to the Commission for the Blind and Visually Impaired.

FOLEY: Senator Howard, as Chair of the committee, you are recognized to open on the confirmation report.

HOWARD: Thank you, Mr. President. Good morning, colleagues.

FOLEY: Excuse me. Members, please come to order. Senator Howard.

HOWARD: Thank you, Mr. President. Good morning, colleagues. This morning, I'm bringing you three appointments for the Commission for the Blind and Visually Impaired. All three of these candidates were advanced unanimously from the Health and Human Services Committee. The first appointment is Mr. Mark Bulger. Mr. Bulger is a reappointment, having served on the Commission for the Blind and Visually Impaired for the past four years. He's originally from Iowa, but currently lives in Omaha and he's been blind since his middle to late thirties and has developed a passion for vocational rehabilitation. He's also been very dedicated to leadership and helping others in the blind community. He's the current chairperson of the board of the Commission for the Blind and Visually Impaired, current president of the Omaha

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

Association of the Blind, current president of the American Council of the Blind of Nebraska, and a voting member of the Nebraska Statewide Independent Living Council. He wants to continue helping Nebraska be a leader in promoting alternative methods for learning for blind and visually impaired individuals in Nebraska. The second appointment is Brent Heyen. Mr. Heyen is a first-time appointment who currently lives in Lincoln and works as an assistant general manager at the Fairfield Inn in Lincoln. He has a history with the Commission for the Blind and Visually Impaired, both as a client and as a volunteer, and wants to continue giving back. He grew up in Syracuse, Nebraska, and began receiving services his junior year of high school. He received services from the commission's working and gaining experience in summer or WAGES program, found employment, and began working with WAGES as a counselor. He's excited to continue helping WAGES graduates learn and grow and is excited to help with the vocational rehabilitation program. The third appointment to the Commission for the Blind and Visually Impaired is Kimberly Scherbarth. Ms. Scherbarth is a first-time appointment who currently lives in Kearney, Nebraska. She works at the University of Nebraska-Kearney in the Office of Disability Services for Students, where she helps connect individuals with accessibility accommodations. She received training from the Commission for the Blind and Visually Impaired in 2015 and '16. And since then, has been an intermittent counselor and instructor helping evaluate blind individuals' needs and providing skills and training. She looks forward to continue helping blind and visually impaired individuals gain more independence through skill training. Again, all three candidates were advanced unanimously out of committee, and I would urge you to vote green and confirm them. Thank you, Mr. President.

FOLEY: Thank you, Senator Howard. Is there any discussion of the confirmation report? I see none, Senator Howard, you are recognized to close. She waives close. The question before the body is the adoption of the confirmation report from the Health and Human Services Committee. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 33 ayes, 0 nays on the adoption of the report.

FOLEY: The confirmation report from the Health and Human Services Committee is adopted. Next confirmation report, please.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

ASSISTANT CLERK: Mr. President, the next report from the Transportation and Telecommunications Committee involves appointments to the Nebraska Motor Vehicle Industry Licensing Board.

FOLEY: Senator Friesen, as Chair of the committee, you are recognized to open on the confirmation report from the Transportation and Telecommunications Committee.

FRIESEN: Thank you, Mr. President. I rise today to ask for approval of nine appointments to the Nebraska Motor Vehicle Industry Licensing Board. The board licenses and regulates motor vehicle dealers, manufacturers, and distributors and takes consumer complaints from the public. Seven of the appointees appeared in person and two called in to testify. I will provide some information on each appointee. Stephan Budke, Joe Kosiski, and Dennis Schworer are reappointments to the board. Mr. Budke is a Harley-Davidson dealer from North Platte. Mr. Kosiski is a manager of an auto parts store in Omaha. Mr. Schworer lives in Bellevue and is the owner of Schworer Volkswagen Honda. New appointees include Dennis Cloninger from York who is general manager of Champion Homebuilders; Brad Jacobs, a new car dealer from St. Paul; Clint Jones, a Genoa resident and owner of Clocktower Auto Mall in Columbus; Thomas McCaslin from Broken Bow who is a car sales for Gateway Motors; Matthew O'Daniel who lives in Arlington and owns O'Daniel Honda in Omaha; and Curt Prohaska who is a retired member of the Nebraska State Patrol living in Crete, who is the public member of the board. Our committee heard from all of the appointees and asked them questions about licensing board and their responsibilities. Senator Albrecht was particularly helpful because of her expertise in the industry. The committee was pleased with the quality of the appointees and recommended unanimously that the appointees be confirmed by the Legislature and I urge your adoption of these appointments. I'd be happy to answer any questions you may have. Thank you, Mr. President.

FOLEY: Thank you, Senator Friesen. Is there any discussion on the confirmation report from the Transportation Committee? I see none. Senator Friesen, you are recognized to close. He waives close and the question before the body is the adoption of the confirmation report from the Transportation and Telecommunications Committee. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

ASSISTANT CLERK: 36 ayes, 0 nays on the adoption of the report.

FOLEY: The confirmation report is adopted. Next report, please, Mr. Clerk.

ASSISTANT CLERK: The next report, Mr. President, from the Agriculture Committee to an appointment to the Nebraska State Fair Board.

FOLEY: Senator Halloran, you are recognized to open on the confirmation report from the Agriculture Committee.

HALLORAN: Thank you, Mr. President. Good morning, Nebraska. Good morning, colleagues. The Agriculture Committee recommends a confirmation of the reappointment of Beth Smith to the Nebraska State Fair Board. Beth Smith represents the business community of the 1st Congressional District on the Fair Board and was selected at the February meeting of the board to chair the State Fair Board. This would be Beth's second term on the board, which would expire in December 2022. She is eligible for this and one additional three-year term. Mrs. Smith lists her occupation as community volunteer and she has been active serving in board positions in other capacities with a number of community foundations and service organizations including the Bryan Hospital Foundation, TeamMates Mentoring Program, Friendship Home, Sheldon Museum of Art Committee, and Junior League of Lincoln. It is misleading to say that she is unemployed, as she and her husband Clay own a family business, Speedway Motors, here in Lincoln, and is involved in the operations of the Museum of American Speed, which was founded and supported by Speedway Motors. Beth earned a degree in business administration from Southern Methodist University and has served on the staff of former-President George Bush and Congressman Tom Coleman in Washington, D.C., before returning to Nebraska, where she served as executive director of the Nebraska Republican Party from 1997 to 2000. Mrs. Smith appeared in person for her confirmation hearing on February 18. During her hearing, she spoke very confidently of her ability to lead the board's efforts to resolve financial issues confronting the fair and to build relationships with the press and the public. The committee voted 7 ayes and 0 dissenting votes to recommend confirmation of Mrs. Smith's appointment. I move adoption of the Ag Committee report.

FOLEY: Thank you, Senator Halloran. Is there any discussion of the report? Senator Cavanaugh, you are recognized.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

CAVANAUGH: Thank you, Mr. Lieutenant Governor. Good morning, colleagues. Senator Halloran, would you yield to a question?

FOLEY: Senator Halloran, would you yield please?

HALLORAN: I certainly would.

CAVANAUGH: Thank you. Just as you were speaking about Mrs. Smith's qualifications, you mentioned one that-- I guess I was a little concerned about the pertinence to the position because it was a political one; her position within the Republican Party. Is that something that the committee felt was pertinent or was just pertinent to share this morning?

HALLORAN: No, but that was on her resume and I think it was perfectly appropriate to list that as her resume.

CAVANAUGH: OK, thank you. I just wanted clarification because that struck me this morning. Thank you very much.

FOLEY: Thank you, Senator Cavanaugh. Any further discussion? I see none, Senator Halloran, you are recognized to close. He waives close and the question before the body is the adoption of the confirmation report from the Agriculture Committee. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 32 ayes, 0 nays on the adoption of the report, Mr. President.

FOLEY: Thank you. The confirmation report from the Agriculture Committee is adopted. Next report, please.

ASSISTANT CLERK: Mr. President, the first report from the General Affairs Committee is to the State Racing Commission.

FOLEY: Senator Lowe, as Vice Chair of the committee, you are recognized to open on the confirmation report.

LOWE: Thank you, Lieutenant Governor. Colleagues, I present for your approval the reappointment of Janelle Beveridge to the State Racing Commission. The State Racing Commission was established by the Legislature in 1935. The purpose of the commission is to prevent and eliminate corrupt practices in horse racing and pari-mutuel wagering, to maintain a high level of integrity and honesty in the horse racing

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

industry, and to ensure and promote the safety and-- the safety of racing participants and the horses. The commission principles are to protect, preserve, and promote agriculture and horse racing in Nebraska. Ms. Beveridge came before the committee on February 24 for her reappointment hearing to the State Racing Commission. Ms. Beveridge is a resident of Paxton, Nebraska, and works as a coach and substitute teacher for the Paxton Consolidated Schools. She has previous experience serving the Racing Commission as well as other boards and commissions including Nebraska Independent Community Bankers Board, the UNK Alumni Board. The committee appreciated Ms. Beveridge's experience having served on the Racing Commission for several years and her willingness to continue to serve. The committee unanimously voted to approve the appointment of Ms. Beveridge to the State Racing Commission. I ask for your support to the reappointment of Janelle Beveridge to the State Racing Commission.

FOLEY: Thank you, Senator Lowe. Is there any discussion on the confirmation report for the General Affairs Committee? I see none, Senator Lowe, you are recognized to close on the report. He waives close and the question before the body is the adoption of the confirmation report from the General Affairs Committee. 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 the report, Mr. President.

FOLEY: The confirmation report from the General Affairs Committee has been adopted. Before proceeding on the agenda, a quick announcement: cookies being distributed on the floor today are in honor of Senator Gragert's birthday. Happy birthday, Senator Gragert. Now proceeding to General File 2020 senator priority bills. Excuse me, there are more confirmation reports. Mr. Clerk.

ASSISTANT CLERK: Mr. President, the next report from the General Affairs Committee is two appointees to the State Electrical Board.

FOLEY: Senator Lowe, again.

LOWE: Thank you, Lieutenant Governor, and good morning, colleagues. I present for your approval today the appointment of two individuals to the State Electrical Board. James Brummer and David Hunter Jr. both came before the committee on February 24. The State Electrical Act was

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

created in 1975 and the act provides all laws regarding electrical licensing and inspection in the state. The State Electrical Board sets the policy and directs the efforts of the executive director of the State Electrical Division. The board adopts rules and regulations necessary to enable and carry into effect the State Electrical Act. Firstly, James Brummer came before the committee for reappointment to the State Electrical Board. Mr. Brummer is a resident of Norfolk, Nebraska. He works for the Nebraska Public Power District and serves as the representative for public power on the board. Kevin Booker, executive director of the State Electrical Division, testified in favor of Mr. Brummer's reappointment to the board and indicated that Mr. Brummer has done a great job on the board so far. The committee was impressed with Mr. Brummer's electrical background working with both rural and Nebraska Public Power and unanimously approved the reappointment of Mr. Brummer to the Electrical Board. Secondly, Mr. David Hunter Jr. came before the committee for appointment to the State Electrical Board. Mr. Hunter is from Auburn, Nebraska, and is the general manager for the Auburn Board of Public Works. Mr. Hunter has previous experience in this area working for the city of Holdrege as utilities superintendent and as Villisca Municipal Power electrical superintendent. Kevin Booker, executive director for the State Electrical Division, testified in favor of Mr. Hunter's appointment to the board and indicated that though this would be Mr. Hunter's first appointment to the board, Mr. Hunter has previously worked with and been helpful to the board. The committee appreciated Mr. Hunter's expertise and experience working in the electrical field and with the public utilities, unanimously approved this appointment to the State Electrical Board. I urge the body to support the appointment of both James Brummer and David Hunter Jr. to the State Electrical Board.

FOLEY: Thank you, Senator Lowe. Is there any discussion of the second confirmation report from the General Affairs Committee? I see none, Senator Lowe, you are recognized to close. He waives close and the question before the body is the adoption of the second confirmation report from the General Affairs Committee. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

ASSISTANT CLERK: 36 ayes, 0 nays on the adoption of the report, Mr. President.

FOLEY: The second confirmation report from the General Affairs Committee has been adopted. Third confirmation report, Senator Lowe.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

LOWE: Thank you, Lieutenant Governor. Colleagues, I present for your approval today the appointment and reappointment of Kelly Lambert to the Commission on Problem Gambling. The Nebraska Commission on Problem Gambling was established in 2013 with the passage of LB6. The commission aims to counter the negative impact of gambling addiction with effective, evidence-based prevention and treatment services for Nebraskans and their families. Ms. Lambert had a confirmation hearing before the committee on February 24. Ms. Lambert is a resident of Trumbull, Nebraska, and is employed at Christensen Transportation, LLC. Ms. Lambert shared with the committee her experience as a compulsive gambler and her desire to give back and assist others with compulsive gambling. The committee appreciated Ms. Lambert's candor and passion to help others and unanimously approved her appointment to the Commission on Problem Gambling. I urge you to support the appointment of Ms. Kelly Lambert to the Commission on Problem Gambling.

FOLEY: Thank you, Senator Lowe. Is there any discussion on the confirmation report? Senator Chambers, you are recognized. Senator Chambers.

CHAMBERS: Thank you, Mr. President. I would like to ask Senator Lowe a question or two.

FOLEY: Senator Lowe, would you yield, please?

LOWE: Yes, I will.

CHAMBERS: Senator Lowe, what language were you delivering your presentation in?

LOWE: English.

CHAMBERS: I couldn't understand you, I'm sorry?

LOWE: English.

CHAMBERS: Oh, I guess you weren't speaking loudly enough. But when you were speaking in that kind of well-modulated tone, I thought it was spiritual. I don't know all the words, but it says swing low, sweet chariot. So I thought I'd just play on that and say, I'll take a swing at Lowe this morning. Senator Lowe, you-- is this the first time

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

you've fulfilled the role that you hold as Vice Chair in terms of presenting something to the body in this fashion?

LOWE: Yes, it is.

CHAMBERS: When did you become aware that you were going to have to perform this function?

LOWE: Yesterday.

CHAMBERS: Roughly what time, if you can recall? Because that could be either traumatic or exhilarating. And you may not focus exactly on the time, but to the best of your recollection, under these circumstances, around what time did it come to your attention?

LOWE: Sometime between noon and 6:00.

CHAMBERS: Sometime between noon and 6:00 and you cannot pinpoint it any more precisely than that?

LOWE: I probably could.

CHAMBERS: Well, do you have a reason for not doing it since I asked you the question?

LOWE: No, I don't.

CHAMBERS: Well, would you be willing to pinpoint it?

LOWE: I'm thinking about that.

CHAMBERS: Well, take time. Sometimes when you're in a new and pressure-filled situation, you have to think before you make a move so you won't make a mistake that is unnecessary. So think about it. Let me know when you're ready.

LOWE: OK, I'm ready.

CHAMBERS: And I'm a very patient man. As you grow older in this world, you learn to deal with various types of infirmities that may befall the younger generation. And since you yourself was young at one time and you're not forgetful, you're willing to give them the consideration that may not have been given you when you were that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

young age. Now, do you remember the question that I asked you, Senator Lowe?

LOWE: That was a long time ago. Yes, I do.

CHAMBERS: Would you repeat the question so that people who may read the transcript will understand what you're responding to?

LOWE: You had asked me if I knew the exact time that I found out about this.

CHAMBERS: That's close enough. Can you pinpoint a time that is more precise than between noon and 6 o'clock?

LOWE: Yes, I can.

CHAMBERS: Would you be willing to do so?

LOWE: Yes.

CHAMBERS: And will you do so?

LOWE: Yes.

CHAMBERS: What is that more precise time if you would share it with us?

LOWE: Sometime between 12:01 and 6 o'clock.

CHAMBERS: Now I have another question to ask. Can you pinpoint it more precisely than 12:01 to 6 o'clock?

LOWE: Yes, I can.

CHAMBERS: Can you say precisely what that time would be?

LOWE: Yes.

CHAMBERS: Will you do so?

LOWE: Yes.

CHAMBERS: I would ask that you do so at this point then.

LOWE: Thank you very much for clarifying that.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

FOLEY: One minute.

LOWE: Thank you. It was approximately 4:30 in the afternoon.

CHAMBERS: Thank you. And before I go on, Senator Lowe, for those of you who might get a chuckle out of the way he is responding, would be an excellent witness on the witness stand. When you ask the question, he answers it as briefly and with as little commentary as possible. If you ever have to testify, Senator Lowe, whether you did that intentionally-- do on the witness stand what you did here today-- and because I only have a minute, I turned my light on because there's a point I want to make in all of this. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. You are next in the queue, Senator. You may continue, Senator Chambers.

CHAMBERS: Thank you. I will give you an example and some of you may have heard this. There was a lawyer whose client had been accused of biting a man's ear off. So the client, the individual who testified to that, was being questioned by the lawyer. And sometimes it's not the witness who goes a step beyond, but the lawyer. The lawyer said, why do you say my client bit this person's ear off? Did you see him bite the ear off? And the person on the stand said no. And the lawyer feels a sense of exhilaration so he wants to embarrass the person who is testifying against his client. He said if you did not see him bite the ear off, why would you testify or give that information prior to taking your position in the witness box today? If you didn't see him bite that man's ear off, why did you say he bit it off? And the man said, I saw him spit it out. So if the lawyer had stopped, maybe he would have made a point. Sometimes people go beyond what they need to. Now that we have a time that Senator Lowe became aware of this momentous and heavy responsibility that was reposed on his shoulders, I want to proceed with my-- I won't call it interrogation. Senator Lowe, since you know pretty precisely when that responsibility was placed upon you, do you remember who brought this momentous information to you?

FOLEY: Senator Lowe, would you yield, please?

CHAMBERS: I didn't understand you.

LOWE: Yes, I will.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

CHAMBERS: Was it a little bird who brought it to you?

LOWE: No, it was not.

CHAMBERS: Was it a member of the species homo sapiens?

LOWE: In a way.

CHAMBERS: All right, in a way. Then let me make it more acceptable to a conservative. If you say, in a way, that it was a member of the homo sapiens species, could you give a more direct answer if I called it the hetero sapiens species as opposed to homo?

LOWE: It was through a phone call, I'm not sure.

CHAMBERS: Now when it was brought to you, whether by a member of the homo sapiens or the hetero sapiens, did your heart flutter?

LOWE: No.

CHAMBERS: Did your palms, the palms of your hands, did they become moist with perspiration?

LOWE: No.

CHAMBERS: Were you seated or standing at the time?

LOWE: I was sitting.

CHAMBERS: Did you stand up when you got the information or did you remain sitting?

LOWE: Later, I stood.

CHAMBERS: And were you just standing up or were you standing for something?

LOWE: I always stand for something.

CHAMBERS: What were you standing for, if you don't feel it's too intrusive?

LOWE: To straighten my pant leg out.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

CHAMBERS: Very good. Now did you succeed in achieving what you stood for?

LOWE: Yes.

CHAMBERS: Do you feel that as you bring this information to the members of the Legislature, you are achieving or discharging the duty that was--

FOLEY: One minute.

CHAMBERS: --reposed on you?

LOWE: I think I'm boring them.

CHAMBERS: Say it again.

LOWE: I think I'm boring the members of the Legislature right now.

CHAMBERS: Well, we're making it very interesting. I hear no sounds. I don't see people wandering. They're sitting in their seats, the only ones who might be. And I was going to mention Senator Brandt. He was taking a sip of coffee, but that could have been to steady his nerves. Now would you like to be the chairperson of that committee some day rather than the Vice Chair?

LOWE: Oh, I wouldn't want to impose on Senator Briese at this time.

CHAMBERS: Well, no, it wouldn't be at this time because he serves until they vote again. So you wouldn't be displacing him. But at some point, would you rather be the chairperson rather than the-- in other words, would you rather be the groom than the groom's best friend? I didn't want to say bride rather than bridesmaid. You know, people are sensitive these days, although a man could be the bride or the bridesmaid. That's all I'll ask you. You gave me--

FOLEY: That's time.

CHAMBERS: --something to think about. Did you say time?

FOLEY: That's time.

CHAMBERS: Was that my third time?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

FOLEY: No, it was not. Senator Lathrop, you are recognized. I do not see Senator Lathrop on the floor at the moment. Senator Chambers, you're next in the queue and this is your third time.

CHAMBERS: Thank you. And Senator Lowe, I appreciate your cooperativeness and I have something in mind when I stand like this; nothing to direct to Senator Lowe, at this point, in terms of questions. I mention hetero sapiens rather than homo sapiens. I know how sensitive people who call themselves conservatives are. I said the groom or the groom's best friend then quickly said a man could be the bride or the bridesmaid to make a point. Societies grow, societies change. They can go backward or they can become more mature, more all embracing, more able to look beyond labels, party requirements, religious dogmas, and see every human being as a human being; a member of the human family. If that member is a female, she is our sister. If a male, our brother. If trans, as Burger King would say, have it your way. As Shakespeare said, as you like it. We are supposed to be representatives of what is valuable in this society. We are not, but we can be presumed to be intelligent, well read, broad in our outlook. And if you claim to be a Christian, one who follows the teachings of the one after whom a religion is named-- and while I'm on that, for your information, the disciples were first called Christians at Antioch. That's straight from the "Bibble" and it probably was a derisive term; making fun. But the people who did that only did it with words. Those who called themselves Christians and do not follow what that Christ told them to do, goes-- those people go beyond mere words. They crucify Christ again. And how do they crucify him? By not doing what he told them to do. And he told you in great detail what you ought to do and for whom you ought to do it. We usually-- because it's easy, we'll say the widows and the orphans. But the homeless should be provided with shelter. The barefooted should be given shoes. The broken hearted should be comforted. Those who are placed on the fringes of society made to feel they dwell on the underside of the garment; the throwaway people, the nonpeople, the unpeople, the one whose title would be no man, no woman were all created by the same God that created these who are judging so harshly. And in the same way you judge others, it'll be meted out unto you; pushed down, shaken together. So be careful how you judge; that Jesus told you-- who are asked who are you to judge another person's servant? You let the wheat and the tares grow together.

FOLEY: One minute.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

CHAMBERS: And if there comes a time when there should be a separation, I will make the separation, not you. You cannot make one hair on your head white or black. You cannot determine with certitude that when you breathe out, you will breathe in again. You did not make yourself. You did not make these for whom you show such contempt. So treat these-- who I say are your brothers and sisters-- the way you want to be treated. And that's the standard by which you'll be judged. And I want to thank Senator Lowe for helping me get that off my mind. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Lowe, you are recognized to close on the confirmation report. He waives close. The question before the body is the adoption of the confirmation report from the General Affairs Committee. Those in favor vote aye; those opposed vote nay. Have you voted who care to? Record, please.

ASSISTANT CLERK: 31 ayes, 0 nays on the adoption of the report, Mr. President.

FOLEY: The third confirmation from the General Affairs Committee has been adopted. Fourth report, Senator Lowe.

LOWE: Thank you, Lieutenant Governor. Colleagues, I present for your approval today the appointment of Mark Laughlin to the Nebraska Arts Council. The Nebraska Arts Council was established in 1974 to promote and cultivate and sustain the arts for the people of Nebraska. Mr. Laughlin came before the committee on February 24, seeking appointment to the Nebraska Arts Council. Mr. Laughlin is a resident of Omaha and a practicing attorney. He has previous experience on the Nebraska Arts Council and the Omaha Community Playhouse Board. Mr. Laughlin shared with the committee his love and commitment for the arts. The committee appreciated Mr. Laughlin's continued desire to support the arts and voted unanimously to approve the appointment of Mr. Laughlin to Nebraska Arts Council. Therefore, I urge your confirmation of Mark Laughlin to the Nebraska Arts Council.

FOLEY: Thank you, Senator Lowe. Is there any discussion on the fourth confirmation report from the General Affairs Committee? I see none, Senator Lowe, you are recognized to close on the report. He waives close. The question before the body is the adoption of the fourth confirmation report from the General Affairs Committee. Those in favor

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

vote aye; those opposed vote nay. Have you all voted who cared to? Record, please.

ASSISTANT CLERK: 30 ayes, 0 nays on the adoption of the report, Mr. President.

FOLEY: The fourth confirmation report from the General Affairs Committee has been adopted. Items for the record, please.

ASSISTANT CLERK: Thank you, Mr. President. Your committee on Health and Human Services reports LB755 to General File with committee amendments attached. Urban Affairs reports LB976 as placed on General File. An amendment to be printed to LB858 from Senator Hughes. That's all I have at this time.

FOLEY: Thank you, Mr. Clerk. Proceeding now on the agenda, General File 2020 senator priority bill, Mr. Clerk.

ASSISTANT CLERK: Mr. President, the first bill this morning, LB344 by the Agriculture Committee. It's a bill for an act relating to agriculture; to eliminate the Nebraska Poultry Disease Control Act, the Bovine Tuberculosis Act, the Anthrax Control Act, the Animal Importation Act, the Swine Brucellosis Act, Bovine Brucellosis Act, Pseudorabies Control and Eradication Act, the Scrapie Control and Eradication Act, and the Bureau of Animal Industry; terminates the Bovine Tuberculosis Cash Fund, Anthrax Control Act Cash Fund, Brucellosis Control Cash Fund, Pseudorabies Control Cash Fund, Scrapie Control Cash Fund; and to provide for criminal and civil penalties; to harmonize provisions; and to repeal various sections of law. This bill was referred to the Agriculture Committee. That committee placed the bill on General File with committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Halloran, you are recognized to open on LB344.

HALLORAN: Thank you, Mr. President. Good morning, Nebraska. Good morning, colleagues. LB344 is brought at the request of the Department of Agriculture. The bill would consolidate, under a new Animal Health and Disease Control Act, a number of specific livestock disease program statutes, the Animal Import Act, and other provisions of Chapter 54, Article 7 that are often referred to as general powers authorities. Each of these concurrently endow the department with powers such as quarantine, inspection, and disease surveillance authorities. It also includes provisions regarding duties of the

department and the livestock and veterinary communities for carcass disposal, disease reporting, animal identification, and disease incident response. LB344 would eliminate duplicative provisions of the existing law and outright repeal outdated statutes that in many cases are no longer supported by current veterinary science and current practice. Many of the provisions of the disease-specific acts that are repealed by this law were enacted at a time when the diseases were prevalent to coordinate with federal eradication programs and often, to qualify producers for federal funds for indemnity. Now that we have reached disease-free status, many of these provisions are now outdated. Essentially, the bill would consolidate our livestock health laws under more modern and general authorities that enable the department and our livestock sector to remain consistent with existing federal disease response, surveillance, and prevent regulations as well as position the department to carry out general animal disease responsibilities. While much of the bill is pulling existing authorities under one comprehensive animal health law-- before turning to the committee amendments, I'll use the remainder of my opening to describe significant purposes or changes. First, the bill updates animal disease control activities consistent with current veterinary practices in the field and expressly requires the department to, as far as practical, to conform to disease control and eradication activities, to federal rules, regulations, and guidelines that govern our ability to retain disease-free status. Next, LB344 provides more flexibility for mitigation of animal disease impacts, especially in regard to restricted animal movement, control, and quarantine. There are certain animal diseases for which eradication may not be practical or economically feasible. For example, long-term quarantines could seriously impede trade or interstate commerce and having flexibility for options, other than outright quarantines, allows for continuity of business where practical. Also, the bill adds to the trichinosis provisions that the department has expressly-- has express authority to order an infected animal to go directly to slaughter. The bill incorporates animal identification requirements under the federal disease traceability rule or other applicable federal ID standards for interstate movement of animals. These rules already apply under federal law and the direct incorporation of these rules enables our ID requirements to be consistent. LB344 provides for administrative hearings and the assessment of administrative fines for violation of the act. LB344 expressly exempts the department from liability for actual incidental costs incurred by any person due to departmental actions in enforcing the act. This provision is consistent with other

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

agency statutes. LB344 carries over authorities from the proposed repeal provisions allowing the department to assess and collect payments for services provided, the expenses incurred pursuant to their responsibilities under this proposal. Since the committee amendment becomes the bill, I will stop here and talk about the bill further on my opening on the, on the amendment. LB344 was heard before the committee on February 5. The committee advanced the bill with amendment this year on a vote of 8-0. With that, I will conclude my opening and speak further on the committee amendments.

FOLEY: Thank you, Senator Halloran. As the Clerk indicated, there are committee amendments. Senator Halloran, as Chair of the committee, you are recognized to open on these amendments.

HALLORAN: Thank you, Mr. President. The committee amendment, AM2486, is a white copy that replaces the bill. The committee held the bill over the interim to allow more time for the livestock community to become better acquainted with the bill before advancing it. Last August, I hosted a meeting attended by a broad swath of livestock and farm organizations, veterinarians, and others where we examined the bill section by section. From that meeting, the department and my office collaborated on revisions to the bill that would become the committee amendment. First, I want to speak to some changes in the bill that address concerns brought forth by the regulated community. First, LB344 provides the department with the authority to impose administrative fines. While there's general agreement that this is a helpful enforcement mechanism, there was concern with LB344 that the fine structure was far too punitive. The amendment provides that administrative fines assessed shall be per violation; eliminating the original provision that if the violation involved a load of animals, each animal was a separate violation. The committee amendment removes unnecessary and overreaching adoption of federal regulations. Section 59 of the original bill incorporated, by reference, a large number of USDA regulations. That section is omitted and although we retain intent in carrying out the bill, the Nebraska Department of Agriculture shall be, to the extent necessary and not inconsistent with the act, be consistent with applicable federal regulations. LB344 as introduced carried over provisions from current law found in several of the disease-specific programs that the department could charge for administrative costs incurred by the department if the livestock owner was not cooperative and the department was required to expend funds to house and gather animals to carry out its regulatory duties. The original bill provided that if an owner did not reimburse

the department within 15 days, they were subject to late fees at 25 percent of the amount owed per month with no specific cap. The amendment changes this to 30 days and caps the late assessment at 100 percent of the original assessment. The amendment restores an option under the carcass disposal provisions that allows a carcass to be disposed of upon an adjacent property if the property is owned by the livestock owner. The amendment eliminates a provision that assigns a duty to a county sheriff to cause dead animals to be disposed of properly if the owner fails to fulfill that obligation. The amendment reassigns that duty when given notice by the Department of Ag. Producer groups also suggested a need to provide provisions for carcass disposal in the event of a catastrophic mortality event. The amendment provides that disposal instructions and adoption may be addressed in the herd plan. Much of the remainder of the committee amendment consolidates related provisions to place related subject matter in the same section that are somewhat scattered throughout the bill as introduced. These include duties and authorities of the department, duties for the person/persons with disease-affected animals, penalty provisions and unlawful acts, carcass disposal, and other concepts. Section 40 now lists duties and authorities of the department including all authority for regulations. Section 43 consolidates duties for persons with disease-affected animals. Section 54 consolidates penalties for violation of the act. And Section 55 provides a comprehensive listing of unlawful acts. The amendment further cleans up the definitions by removing substantive requirements that are better addressed in other parts of the bill. The term "livestock" is modified to include bison and a definition of "regulated article" is added. The amendment also expressly provides that the State Veterinarian shall have a degree from an accredited veterinary school. The amendment further provides that the department may seek an inspection warrant where appropriately consistent with procedures as set out in Chapter 29, Article 8. A clarification of an exemption to the requirement for a certificate of a veterinarian inspection form to accompany shipments of livestock into the state is made. Colleagues, I know that was long and drawn out and it was hard to keep your attention on this, but one quarter of the world's pigs died in one year in China due to African swine fever. We need to avoid the weaknesses demonstrated by China in that country's lack of animal disease prevention and control. LB344, as amended with AM2486, will help Nebraska avoid an economic hit as was experienced by China. I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

would move the adoption of the committee amendment and the advancement of LB344.

HUGHES: Thank you, Senator Halloran. Mr. Clerk, there is an amendment to the committee amendment, but I have a note, Senator Halloran, you wish to withdraw that? Excuse me, an amendment to the bill and I have a note you wish to withdraw that?

HALLORAN: Yes, yes.

HUGHES: OK, thank you very much. Seeing no one in the queue, Senator Halloran, you are recognized to close on your amendment to the bill. Senator Halloran waives closing. The question is shall the amendment to the committee-- the amendment to LB344 be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

ASSISTANT CLERK: 31 ayes, 0 nays on the adoption of the amendment, Mr. President.

HUGHES: The amendment is adopted. Senator Halloran, seeing no one in the queue, you are recognized to close on LB344. Senator Halloran waives closing. The question is the advancement of LB344 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

ASSISTANT CLERK: 30 ayes, 0 nays on the vote to advance the bill, Mr. President.

HUGHES: The bill is advanced. Mr. Clerk, we will proceed to General File, LB870.

ASSISTANT CLERK: LB870, introduced by Senator Crawford, is a bill for an act relating to cities and villages; changes provisions relating to direct borrowing; and repeals the original sections. The bill was read for the first time on January 9 of this year and referred to the Urban Affairs Committee. That committee placed the bill on General File with committee amendments.

HUGHES: Thank you, Mr. Clerk. Senator Crawford, you are recognized to open on LB870.

CRAWFORD: Thank you, Mr. President. Good morning, colleagues. I rise to present LB870 and I'd like to thank Senator Clements for selecting

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

it as his personal priority bill. LB870 is a bill about allowing municipalities to borrow directly from banks to finance repairs or provide essential services following a natural disaster. An example of what brought this bill to our attention is in the aftermath of the devastation of flooding last spring, a number of communities in northeast Nebraska had their water supply system damaged or destroyed. The village of Peru temporarily had to rely on trucking to bring in drinking water. In response to that city's dilemma, a local banker reviewed the options at his disposal to assist the city. He discovered that the Nebraska law does not allow banks to provide direct financing to cities or villages in this type of situation to address an emergency need. LB870 is designed to address the emergency need for financing that can result from damages to infrastructure and disruptions in the provision of services by cities and villages resulting from natural disasters. LB870 would clarify provisions related to direct borrowing from a financial institution by cities and villages to allow loans for the financing of the repair or reconstruction of property or infrastructure damaged and the provision of public services temporarily disrupted as a result of a calamity. A calamity is defined narrowly as a disastrous event, including a fire, an earthquake, a flood, a tornado, or other natural event that damages property, improvements, or infrastructure of a city or a village or which results in a temporary disruption or suspension of public services provided by the city or village. While the types of direct borrowing activities that are authorized would be expanded under LB870 to address these emergency needs, the safeguards from the original statute defining direct borrowing remain. These include the requirements that for all types of direct borrowing, cities and villages must be able to show that (1) the use of traditional bond financing would be impractical, (2) that financing through traditional bond financing could not be completed within the time constraints facing the city or village, or (3) that financing through the direct borrowing would generate taxpayer savings over traditional bond financing. Simply put, LB870 gives cities and villages the authority to direct borrow funds, to make repairs, and provide services, if needed, following a natural disaster if the situation meets the criteria already outlined in the existing direct borrowing statutes. And we have an amendment that will be discussed. The amendment that we passed or the committee amendment ensures that there's also limits on the direct indebtedness for direct borrowing in these emergency situations, which is 20 percent of the annual municipal budget of a village or 10 percent of the annual municipal budget for all cities.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

So with that, colleagues, I'd urge you to vote green on LB870 and the committee amendments to grant our municipalities the authority they need to provide for their citizens in a time of emergency. Thank you, Mr. President.

HUGHES: Thank you, Senator Crawford. As the Clerk stated, there are amendments from the Urban Affairs Committee. Senator Wayne, as Chair of that committee, you are recognized to open on the amendments.

WAYNE: Thank you, Mr. President. Good morning, colleagues. The green copy of the bill originally contained a provision that exempted direct borrowing in response to natural disasters from existing caps on the amount of indebtedness from direct borrowing that municipalities could incur in a single year. The committee amendment, AM2182, strikes that provision so any direct borrowing under LB870 would still fall underneath those existing limitations. With that, I would ask you to vote green and adopt AM2182.

HUGHES: Thank you, Senator Wayne. Debate is now open on AM2182. Senator Clements, you are recognized.

CLEMENTS: Thank you, Mr. President. I rise in support of AM2182 and LB870. As a small town banker, I became aware of this bill that especially in near my area-- the city of Peru, their water system went out. They had to buy-- purchase water from a nearby city and the local banker wanted to finance that for them, but found out that the statute that we passed back in 2015 only allowed for real property or personal property equipment to be financed, not a public service like water supply. And so they asked if we could expand this statute to add, in event of a disaster or calamity, to let the local bank directly loan to the city. I do like the restrictions that it has to be published in the agenda ahead of time by the city; that they have criteria, that they have to certify that it's more efficient for them to borrow from the, the bank, rather than issue a bond. And I did a little example for my village. Our property taxes are \$179,000 a year. The, the 20 percent limitation would be \$35,800 for an annual payment and the bill says they could make that up to a seven-year loan. It can't go any longer than seven years. It would be \$250,000 a village of 260 people could borrow. I was looking at that-- if they issued a bond, it might take \$10,000 of legal fees and underwriting fees to issue a bond for \$250,000. That's 4 percent of the loan amount. If they came to my bank, I would guess for \$1,000 we could probably do that financing and it would be a tax-exempt loan to the bank. And so we wouldn't have

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

income tax on that loan. We would also discount the rate below our prime rate. And looking at those figures, I, I thought there's going to be situations where the criteria would be met and it would be of benefit to add this capability to especially villages that have need of short-term financing. Getting it done and also getting a bond issued is going to be months, rather than the local bank probably could do it in two, three weeks, I suppose. And so I did prioritize this in case we have flooding again, which looks like it could happen again this spring. And so I would hope that we could pass this and add this capability. But with the restrictions, it has to be a calamity; a natural disaster such as tornado, fire, earthquake, or flood. And so I would just ask for your green vote. And thank you, Senator Crawford, for bringing this bill. Thank you, Mr. President.

HUGHES: Thank you, Senator Clements. Senator Friesen, you are recognized.

FRIESEN: Thank you, Mr. President. I too stand in support of the amendment and the bill and Senator Clements put it really well. There are times when a municipality runs into issues that are better dealt with by being able to work with a private lender right in the community rather than doing the bonding process. And so it, it actually-- it, it does save money. It makes the process easier. And it's very-- faster in its response time when you need to do something. I would even be willing to open this up to, to further issues that could be covered rather than just disasters. But at the present time, I'm, I'm very supportive of where we're headed. But when you look at a small community's needs and things and when they need to make some purchases or make repairs, in our case, there were two banks in town. When we approached both banks, they started to negotiate against each other. And in the end, we got a tremendously good rate. They felt they were doing something for the community. It helped us out. It didn't make us go through the bonding process on an issue we had. And it saved the community a lot of money. And so with that, I think this is one of those simple things that we can do sometimes to make municipalities react faster to concerns that pop up in front of them. And it does let them handle it in a manner that saves the taxpayer money. Thank you, Mr. President.

HUGHES: Thank you, Senator Friesen. Senator Erdman, you are recognized.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

ERDMAN: Thank you, Mr. President. Good morning. You may notice, and if you haven't, that Senator Chambers is not here, so someone has to say something. So I was telling Senator Clements-- and by the way, I'm, I'm for this bill, but I was telling Senator Clements that maybe if you would start a landbank that they could do the borrowing for you and issue bonds or whatever they needed to do and you wouldn't need to pass this bill. That was rhetorical. But anyway, I am going to vote green on this and, and thank you, Senator Clements, for bringing it.

HUGHES: Thank you, Senator Erdman. Seeing no one else in the queue, Senator Wayne, you are recognized to close on the committee amendment. Senator Wayne waives closing. The question is, shall the committee amendment to LB870 be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

ASSISTANT CLERK: 34 ayes, 0 nays on the adoption of the committee amendment, Mr. President.

HUGHES: The amendment is adopted. Discussion on the advancement of LB870? Senator Albrecht, you are recognized.

ALBRECHT: Thank you, President Hughes. Could Senator Crawford yield to a question?

HUGHES: Senator Crawford, will you yield?

CRAWFORD: Yes, yes.

ALBRECHT: I know we talked before, but I just wanted to be certain that, again, this is city councils and villages, but it wouldn't be NRDs or anyone else. It would just be the city or villages, is that correct?

CRAWFORD: Correct, it is just municipalities.

ALBRECHT: Thank you.

HUGHES: Thank you, Senator Albrecht and Senator Crawford. Senator Lowe, you are recognized.

LOWE: Thank you, Mr. President. Would Senator Crawford yield to a question?

HUGHES: Senator Crawford, will you yield?

CRAWFORD: Yes.

LOWE: Could this be used for anything else besides critical infrastructure-- a bridge, like, to truck in water or something like that? Could it be used for anything else?

CRAWFORD: So it can be used for repair or reconstruction of real or personal property in addition to infrastructure. So that would be-- again, it has to be tied to something that was damaged by the calamity. So in terms of this provision that we're passing in this bill, it's just the repair or, or, or reconstruction of real or personal property is what is in there, in addition to infrastructure and provision of service, only if it's damaged by the calamity.

LOWE: Would, would you be amenable to maybe talking about this sometime between General and Select about limiting to disasters of critical infrastructure?

CRAWFORD: I'm willing to have that conversation. I think that it's that-- again, one of the reasons that we have it more broad is to provide those cases where the, the service gets disrupted. And I think that's a key part of the bill is to deal with service disruption. So I think it's important to keep that in. And the other-- the personal property reconstruction or repair is really trying to deal with those situations that a city may need to address where it's probably least appropriate for bonding is if, if the, the tornado comes through and, and destroys some property.

LOWE: All right. Thank you, Senator Crawford. I yield the rest of my time back.

HUGHES: Thank you, Senator Lowe and Senator Crawford. Senator Slama, you are recognized.

SLAMA: Thank you, Mr. President, and good morning, colleagues. I rise in strong support of LB870 and would like to thank Senator Crawford for bringing this bill and for Senator Clements for prioritizing LB870. My biggest reason for supporting this bill is the extensive damage that was done to infrastructure in my district, particularly in the town of Peru, during last year's flooding. So as many of you know and as has been discussed on the floor a few times already this session, Peru's water treatment plant was entirely compromised almost immediately after Peru's levee failed on March 16. The town of Peru was then left with whatever water was left in the town's water tower.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

This was an amount that would be depleted within a couple of days if the residents were very, very conservative in their usage. The town of Peru, which has about 800 people in it, had limited funds when it came to the disaster. They were stretched pretty thin when it came to damage to their roads and other costs that communities incur when a disaster occurs. And they knew that funding for trucking water in would be provided through FEMA, but they had no other way to pay for trucking until those FEMA checks came in. So they desperately needed a stopgap to pay for the trucking of water from a neighboring community. Otherwise, the entire town of Peru would have been without water. I'm not joking when I say that Peru would have been entirely without potable water had the trucking of water not occurred. We were surrounded by water, but none of it was drinkable. And I think LB870 resolves the issue that Peru ran into in finding that stopgap funding to get them by until FEMA funding was able to come through. So thank you, Mr. President.

HUGHES: Thank you, Senator Slama. Seeing no one else in the queue, the question is the advancement of LB870 to E&R Initial. Senator Crawford, you're recognized to close on LB870, my apologies.

CRAWFORD: Thank you, Mr President. Colleagues, thank you again for supportive comments. I think this is a, a very commonsense expansion of authority for municipalities to allow bankers in their communities to work with municipalities after a calamity. And so I appreciate your support for LB870.

HUGHES: Thank you, Senator Crawford. The question is the advancement of LB870 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

ASSISTANT CLERK: 41 ayes, 0 nays on the advancement of the bill, Mr. President.

HUGHES: The bill advances. Mr. Clerk, we will proceed to General File LB963.

ASSISTANT CLERK: LB963, introduced by Senator Brewer; it's a bill for an act relating to workers' compensation; to change provisions relating to personal injuries of first responders and frontline state employees; to provide a means for demonstrating a prima facie case of personal injury; to provide duties for the Critical Incident Stress Management Program and the Department of Health and Human Services; to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

provide and eliminate definitions; and repeal the original sections. The bill was introduced on January 13 of this year and referred to the Business and Labor Committee. That committee placed the bill on General File with committee amendments.

HUGHES: Senator Brewer, you are recognized to open on LB963.

BREWER: Thank you, Mr. President. Good morning, colleagues. As I start this morning on LB963, I want to start by thanking Senator McDonnell for prioritizing this bill. We all come to this body with certain life skills and his skills, after 24 years of service on the Omaha Fire Department, has been invaluable in developing this skill-- this bill so I appreciate that he was willing to prioritize it. I'm introducing this bill on behalf of the first responders across Nebraska who often face a type of injury that occurs, but until recently, has seldom been diagnosed. I'm talking about post-traumatic stress or PTSD. PTSD is a mental injury that potentially follows one or more traumatic events where an individual experiences a potential or actual loss of life or experiences a sense of hopelessness, horror, or extreme fear. This bill was designed to help first responders; police, firefighters, EMTs. It's for rural and urban. It covers the entire gamut. I served 14 years on a volunteer fire department and I served a number of years in the military on combat tours. And it was not until recently that even the military has started to recognize post-traumatic stress and have treatment. In 2003, I was shot six times in one night. And after recovering from those wounds, was not given any post-traumatic stress assessment. It wasn't until I retired in 2014 that I went through a full assessment; almost 11 years after the wounds. One of the side effects that the military has experienced and we're now starting to experience within the first responders is suicide. The military currently has 22 a day that are committing suicide. And our first responder numbers are starting to increase. So the idea of this bill is now-- is necessary because we have seen that a failure to identify these problems have fatal consequences. I was fortunate when I was wounded again in 2012 to be sent to Madonna, here in Lincoln, for a number of reasons. One is they were able to treat the physical injuries through the occupational therapist and the physical therapist. But they were also able to treat the traumatic brain injury and the post-traumatic stress. The outside wounds were easy to heal from, but the others were more of a challenge. This issue is one that is not easily identifiable. It's hidden below the surface. It wasn't until I was literally forced to go to both a speech therapist and a psychologist that they were able to kind of slow walk me through

issues, challenges, problems, and reveal what the true issues were and that you had to come to deal with these problems or else they would haunt you the rest of your life. Our problem with our EMTs, firefighters, and police, especially in some of the more rural locations, is that we have no ability to do that. And because of that, their-- their situations go unidentified, untreated, and the effects then become compounded. And that's where we have our issues of, of severe, long-term problems or possibly suicide. This bill is designed so that we can have training for them. It's important that we, that we not just treat it, but we also have a way to follow up and be sure that they have a path ahead to get better. The good news is we can do that through resiliency training. The research shows that this resiliency training diminishes the risk of and the severity of post-traumatic stress. Resiliency training is the ability of an individual to bounce back from witnessing horrifying events and to cope with the stress that were created and to help them to live in a healthier manner. We will do this through having mobile training where they can go to the remote locations and have a "train the trainer" and that they then can be that conduit so that if someone is identified as having a problem, you can get them help in a timely manner. Identifying that and helping them is the goal of this bill. In this bill, a first responder has the choice on whether they want to take the training or not. It is purely voluntary. Obviously, the idea is that if they feel they need help, it's available to them. The effects from being exposed to post-traumatic stress are not anything that will simply fade away. What you do is learn how to deal with them day in and day out. Again, this bill is designed to help our first responders to identify the needs when they have post-traumatic stress and that we provide that resiliency training so that they are able to move forward with their lives. With that, I will ask you to please listen closely. We'll have an amendment, but also, Senator McDonnell will be coming up and sharing his experience. And I think that will help you to better understand the overall bill. With that said, thank you, Mr. President.

HUGHES: Thank you, Senator Brewer. As the Clerk stated, there are amendments from the Business and Labor Committee. Senator Ben Hansen, as Vice Chair of the committee, you are recognized to open on the amendments.

B. HANSEN: Thank you, Mr. President. AM2523 is the committee amendment to LB963. LB963 had its public hearing on January 27 of this year and was advanced unanimously by the Business and Labor Committee with committee amendments. The committee amendment is a white copy

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

amendment that makes the following changes to the introduced copy. It limits the definition of mental health professionals in the bill to (1) a practicing physician licensed in the state, (2) a practicing psychologist licensed in the state, and (3) a mental health practitioner licensed in the state. The amendment also clarifies that the mental injury or illness arose from conditions of employment. I would urge your adoption of the committee amendments and the advancement of LB963. Thank you, Mr. President.

HUGHES: Thank you, Senator Hansen. Debate is now open on AM2523. Senator Bolz, you are recognized.

BOLZ: Thank you, Mr. President. First, I rise in full support of LB963. I commend Senator Brewer and Senator McDonnell for their excellent work on this issue. I rise in appreciation to our first responders for their willingness to face these very difficult issues to protect the public safety and support any and every effort to help them recover, both physically and mentally. This seems like an opportune moment for me to address something related that has been on my mind over the past couple of days. And I mentioned to Senator Brewer and he understood that I would be saying a couple of words about Santino Akot. Colleagues, Mr. Akot is our colleague who was injured at the Department of Correctional Services and now is in critical condition. And I want to take a moment to express my appreciation for other public safety professionals, namely our Department of Correctional Services officers, and express my concern about the well-being and the speedy recovery of Mr. Akot. There was an article in the Journal Star today about Mr. Akot, which is fascinating and compelling. Not only is he a Department of Correctional Services officer, he is also an immigrant from Sudan and was one of the Lost Boys. He is a caregiver for his family and is a breadwinner for his family. And he, he is someone who I appreciate fully and want to commend for his hard work and his service at the Department of Correctional Services. Colleagues, there have been times over my eight years as a state senator that members of the Department of Correctional Services' union, folks at the Department of Correctional Services, have wondered about the Legislature's support for them and their work; our understanding of them and their work, our understanding of how dangerous working at the Department of Correctional Services can sometimes be. And I want to assure them that I do understand. I think we do care. We will be integrating the outcome of the union negotiations into our budget bill this year. I just wanted to take a moment, since we were on the subject matter, to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

express my concern and my well wishes to Mr. Akot and his family and to all correctional officers who are facing challenging conditions and dealing with the situation that came about. So I will not go on any further, except to say that we continue, as this legislative body, to look for solutions to staffing and overcrowding issues. And we do keep Mr. Akot in our thoughts and prayers. Thank you, Mr. President.

HUGHES: Thank you, Senator Bolz. Senator Gragert, you are recognized.

GRAGERT: Thank you, Mr. President. I stand in full support of this bill and, and the amendments. After serving 40 years in the military myself and 23 of those years as a medevac helicopter pilot, I currently-- am currently serving on the Creighton Volunteer Fire Department for the past 29 years. I have seen many events where people have been affected and this bill will, will be the help for those individuals to get help. PTSD is that unseen injury that affects many in the field of emergency responders. And again, this bill will offer the help they need. So thank you to all the emergency responders out there throughout the state. God bless. Thank you.

HUGHES: Thank you, Senator Gragert. Senator McDonnell, you are recognized.

McDONNELL: Thank you, Mr. President. Good morning, colleagues. I'd like to thank Senator Brewer for his, his work on, on this bill. As a firefighter for 24 years and a former fire chief, two of the greatest days of being a fire chief was when you hire a, a new class of firefighters. They are excited. They're enthusiastic. They've taken an oath to protect and serve. They've gone through training. The other day is when you see a, a class of firefighters that, that retire after 25, 30, 35 years. Because at that point, you think, well, they made it; they're fine. Because that class you're looking at, when you hire that new class and all those excited faces, you're thinking in the back of your mind, as fire chief, in a 25-year period, one out of every four of them will most likely be wheeled into an emergency room. And which one out of this class is going to make the ultimate sacrifice? So then you start looking at how do you take a dangerous job and make it safer? Training, equipment, technology. So if you had firefighters that were cutting holes in a roof for ventilation purposes and falling off the roof, breaking their leg, you would look into that. And you would say we have to improve on that part of our training, on that part of our performance, and make sure they're safe while they're serving those citizens. We don't think about the mental

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

injury. We don't think about that mental illness. And a lot of times, you don't see it because it's a synergistic effect; it's building. They're serving and they're taking that home with them. And you can't see it. You can't see it like, oh, that person broke their leg and we're going to get them therapy now and fix their leg and improve that training. What this bill does-- it takes a look at all those first responders and says because of your service and because you go into harm's way and what you see and what you experience when you're trying to help someone, we know you're going to carry it with you the rest of your life. And some can't deal with it. Some people I served with committed suicide. They loved the job. They loved serving. They didn't want to leave their families, but they did because they couldn't handle it. With the resiliency training, what we're going to try to do with this bill and how many people it's going to help in our state-- and trying to make sure we know that based on what they're going to see and deal with while they're trying to help people that we recognize-- but yearly, on an annual basis, you're going to go through this training. And we're going to make sure your injury, that mental injury that is as important as any other injury, we're going to try to prevent it. If it happens, we're going to try to-- we're going to treat it and we're going to help you deal with it so you don't deal with it yourself in other ways. And you can continue to serve and do the job that you love. Thank you.

HUGHES: Thank you, Senator McDonnell. Senator Blood, you are recognized.

BLOOD: Thank you, Mr. Chairman. Fellow senators, friends all, I stand in enthusiastic support to LB963 and the amendment, AM2523, and thank Senator Brewer and Senator McDonnell for bringing forward this important bill. I want to make it really clear that statistics really don't capture, capture many of these deaths because there really is a huge social stigma that's attached to this when it comes to discussing mental health. These people put them up on a pedestal and, and they should because they are our heroes. They are always there. They always have our back. I, I served on the Bellevue Public Safety Foundation for ten years, seven years as the Chair, and I, I have never made it a big secret when I'm here on the floor that I am enthusiastically in support of Nebraska's first responders. But I want to put some things into your head today when you push that green button because there's more that needs to be done. These heroes bear the burden of constant exposure to trauma and stress. So in addition to the fires, the deaths, the accidents and such, the recent increase in things like

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

fentanyl use and opioid use that are now being abused across our state-- they are now also bringing people back, constantly, from the brink of life because of these overdoses. I don't think people can imagine the amount of stress that's now being created by these, these, these overdoses and people having to come and bring them back to life and many of these victims more than once. So imagine that additional stress, that additional trauma on a daily basis. So a bill like this is right for the public. It's right for the public servants, our heroes. It's right for public safety, right? We want healthy public servants. So it's not reasonable to ask our first responders to bear the heavy burdens of duty-- to bear the heavy burdens of duty-induced trauma, sorry, without giving them the help and the means that they need to cope. This bill is a no-brainer. It's long past due. But again, I, I am not going to speak again on this bill. I just want to remind everybody that there is more that needs to be done, that you cannot fathom what those jobs have become now with the crises that we have when it pertains to drugs. And you cannot fathom the responsibility that they carry on their shoulders each and every day to make sure that you and I are safe in our communities. And so as we vote for this bill, I hope we're also thinking about what more we can do for them in the future. And with that, I would give any time that I have left. I would yield that to Senator Brewer.

HUGHES: Senator Brewer, 1:45.

BREWER: Well, I've got to close so we'll skip that. And what I will share, real quick, is there have been a few folks that have gone and said, listen, you know, maybe you just kind of need to suck it up. And I will tell you that that was my attitude for a long time. I think Senator McDonnell, especially as a chief, understands that there's times as a leader you have to put on this suit of armor-- and I don't mean that literally-- and, and just always be strong because you can't be that weak link. Too many people look at you and they expect you to be the person who can take anything, do anything.

HUGHES: One minute.

BREWER: Thank you. So what happens is-- and this is leadership, this isn't necessarily any particular place. It can be the, the person that heads up the EMT crew. It can be whoever is the senior person on a callout. But there's a point where the, the armor starts to break apart and you slowly die on the inside. And when that happens and you can't tell anyone, you, you put yourself in a position where your

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

options become narrowed. And I think that's when people give up and believe that, that the only course of action they have is something to harm themselves. So understand this bill-- it, it addresses identifying this problem before it becomes too severe to bring folks back from the, from the edge. Thank you, Mr. President.

HUGHES: Thank you, Senators Blood and Brewer. Senator Kolterman, you are recognized.

KOLTERMAN: Thank you, Mr. President. I had the opportunity to serve as an, as an EMT for two communities, Utica and Seward, over a 14-year period. And I have so much respect for the firefighters, the paramedics, the EMTs, the first responders. This, this is an important piece of legislation that needs to pass. We didn't know what PTSD was years ago. Until you've had the opportunity to go on a fire call or a rescue call and watch a colleague or a friend burn up in a fire or do triage on a family of six and lose five of the six and place kids in a closet because they're not going to survive during the triage, you can't understand what these firemen and, and paramedics and people go through. It's, it's critical that we get them-- they're volunteers in most cases in our state. It's, it's extremely critical that we get them the support and the help that they need. So as we think about this bill, I want you to think about all those people that have served and have done their service in times when they didn't want to have to be out there. In my district, last-- a year ago, we had a young lady that was serving on a rescue squad that was severely injured one Sunday in a, in a snowstorm, just responding to an accident. And it's going to haunt her for the rest of her life, but she's strong. The only thing that gets us through this is our faith and our families in most cases. So I encourage you to support this bill and the amendment and do what we can to recognize the fact that this is real. PTSD is real and we need to deal with it. Thank you very much.

HUGHES: Thank you, Senator Kolterman. Senator Chambers, you are recognized.

CHAMBERS: Thank you. Mr. President, members of the Legislature, some of you all may be aware that I believe in symbolism. And I'd like to engage in a conversation with Senator Brewer, if he's willing.

BREWER: I would be honored.

HUGHES: Senator Brewer, will you yield?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

BREWER: Yes.

CHAMBERS: Have you ever seen one of these before?

BREWER: Yes sir, I have.

CHAMBERS: Do you think you may have seen this one?

BREWER: Yes, sir. I might have been involved with making it.

CHAMBERS: And how did it come into my possession?

BREWER: I presented it to you as a gift, sir.

CHAMBERS: Now, do you have, in your office, a miniature statue of a strong-willed, very important person in the history of this state?

BREWER: I do.

CHAMBERS: And is there a much larger representation of that individual in that hall of statues, or whatever they call it in Washington, D.C., symbolizing this state?

BREWER: There is.

CHAMBERS: And what is that person's name?

BREWER: Chief Standing Bear.

CHAMBERS: And does he have one of these in his hand?

BREWER: He has a very similar one.

CHAMBERS: And there were some famous words he had uttered that led to a declaration that people of his kind, as they might have said, are, in fact, human beings, citizens, and members of the human race and I'm adding all of those words. Did such an event occur?

BREWER: It did and he said that-- he used the term "I am a man."

CHAMBERS: And this could be used as a deadly weapon, could it not?

BREWER: I believe the conversation I had when I gave that to you was that it could either be a weapon or it could be used as a peace pipe.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

CHAMBERS: And that's, that's all I will ask. That's why I wanted to go through this with Senator Brewer. In a sense, the symbolism that I see tailgates on what I was talking about this morning, trying to get across; that all of us, being born of a man and a woman, are brothers and sisters. Senator Brewer, had he chosen to, could have adopted a very bitter attitude. And because he could not get back at the ones who did so much to his-- and I use this term advisedly-- his people, he is going to punish those who are the descendants of those people. But he is allowing the spirit of one of his forebears to reach down through the generations and imbue him with an attitude that will lead him to come into this Legislature, this white people's Legislature, with a piece of legislation that will give assistance to the descendants of those who wanted to destroy his people, did not consider them human beings. And yet, his legislation will help those who have what he could be nurturing right now; an illness that nobody will be able to see. Nobody who is not suffering it would ever understand. But he sees it, he feels it, he understands it, and he's taking action here to do something about it. There will be times when Senator Brewer and I will be on opposite sides--

HUGHES: One minute.

CHAMBERS: --with some of these issues, which, compared to what I'm talking about, could all seem petty. But when it comes down to what really counts, you need to, if you can, see what people who believe in what they say are willing to do; not just talk about it, not just give speeches about it, but take action that will bring a situation where the one who could either try to dry up the water, one who could set the oil affire and spread it so there's a conflagration; would instead take that oil and pour it on troubled waters and smooth that surface. And something good will come out of a set of circumstances which could have generated--

HUGHES: Time, Senator.

CHAMBERS: --great evil. Thank you, Mr. President.

HUGHES: You are next in the queue.

CHAMBERS: I'm not going to stay up here this morning, but I had to come up when I saw what the bill was and that Senator Brewer is bringing it. I was at a hearing we had before the Executive Board yesterday where Senator Brewer was presenting a bill that would

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

require the flying of the flags of the various tribes. And somebody who spoke pointed out that when it comes to people who join the military, Native Americans, as they are called, enlist out of all proportions to their numbers; a greater proportion than any other group. And my comment was that there might be an explanation for why they enlist in those numbers and fight so hard for this country. People fight hard for their homeland. If you believe in the circle of history, as I call it, that which was will become again-- so they are fighting hard now so that when the circle is complete and this, once again, is their homeland-- their homeland not just because they reside here. I can live in a house, but it's not my home. There is an ownership that you have when it's your homeland. Not being there because somebody suffers or allows you to be there, that is particularly galling when it was yours originally. And it was taken from you through treachery, force of arms, and all of the other underhanded, vicious things that those who want to steal from others will use. So my view is that the circle will be completed. And once again, this country, this land will be in the hands of those from whom it was taken. And there will be those of their numbers who fought for this country when it was called something else and helped preserve something for those who would come later and reclaim that which was theirs. And I do believe that Senator Brewer will not be here when that happens. None of us will be. His descendants will be the ones who will see it. And I believe that his descendants will see the reclaiming of this country as their homeland far sooner than people of my complexion will reclaim our humanity; our manhood, our womanhood. When I am being completely honest with myself in reviewing how things have happened in this country with reference to people of my group, we won't have our humanity restored to us until Senator Brewer's descendants have this land restored to them. And we won't have to argue with them because some of them will have understood history and they'll say, without you saying it, we give you back that which they took from you because--

HUGHES: One minute.

CHAMBERS: --we know that you are a man. Thank you, Mr. President.

HUGHES: Thank you, Senator Chambers and Senator Brewer. Senator Friesen, you are recognized.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

FRIESEN: Thank you, Mr. President. Would Senator Brewer yield to some questions?

HUGHES: Senator Brewer, will you yield?

BREWER: Yes, I will.

FRIESEN: Senator Brewer, would a person wanting to join a volunteer force out in rural Nebraska now be required to take a mental health exam before he joins so that he can prove that he was mentally capable of being an EMT or a first responder?

BREWER: There would be a requirement to take an assessment so that we had a, a basis to start from. And part of that is that we address those that had served in the military to make sure that we know their assessment upon leaving the military. That's one of the things they do is a post-traumatic stress assessment that goes in their permanent military jacket file and then would be available for anybody who needed to see their current situation, as far as percent of disability for any type of post-traumatic stress.

FRIESEN: So there's, there's obviously some people who should never be on an EMT squad or fire department because during that, during that exam, would it show that some of these people are more susceptible to PTSD?

BREWER: It would, I suppose, to the degree they could test some of that. Sometimes it's hard to know until you're really in a situation how someone would react. So it would be a best guess on their mental state and whether or not they would be a good candidate.

FRIESEN: But if-- would this be a way of screening some of those candidates out of that profession?

BREWER: Well, I think if there was an obvious reason, but I think that initial assessment is just to make sure that there's no preexisting conditions that would prevent them from being able to function in that capacity as a firefighter, an EMT.

FRIESEN: So you're, you're setting a baseline so that down the road, you could measure if something had changed?

BREWER: Correct, correct.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

FRIESEN: So if somebody wanted to go in and-- I mean, obviously, everyone on a, on a squad now would want to go in and have an evaluation so you establish that baseline. Who pays for that?

BREWER: Well, there is an A bill that-- it's with the, the bill itself. And part of that is both for that assessment, but also for the training-- to give them the resiliency training. So it's, it's a combination of both.

FRIESEN: So-- and that would be paid through HHS?

BREWER: That would be General Fund.

FRIESEN: General Fund. So there would not be a property tax issue here, an unfunded mandate? It would all be paid for with state dollars?

BREWER: That's correct.

FRIESEN: OK. So what happens if somebody neglects to take the required training?

BREWER: I think the, the cities-- we had a meeting this morning with counties and, and cities to, to kind of go over some of the groundwork on this. And I think that would be a requirement so that they would not have an option if they wanted to participate in whatever type of emergency services in question.

FRIESEN: So if a person didn't participate, they would be removed from the squad?

BREWER: Well, I think they would-- it's not mandatory to do the resiliency training, but it would be to do an assessment.

FRIESEN: OK. So it's, it's mandatory to do the assessment. You set the baseline. But if a person refuses to take the training and then suddenly, down the road, has an incident that triggers something-- I mean, since there's no requirement to do the training, now have we just set the stage for knowing that they should have taken this training; that now the baseline has changed and we have someone who wants total disability?

BREWER: Well, understand that the idea isn't that every single person does the training.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

HUGHES: One minute.

BREWER: Part of the, the idea is that you have someone that's in the particular organization-- fire, rescue, police-- and they go through the training. And they are able to identify if someone has issues and then make sure they can get treatment and that then we address the problem before it becomes more severe so that there is some type of a follow-on issue that we have to have.

FRIESEN: OK. Thank you, Senator Brewer. Thank you, Mr. President.

HUGHES: Thank you, Senators Friesen and Brewer. Senator Albrecht, you are recognized.

ALBRECHT: Thank you, Speaker Hughes [SIC] and I'd just kind of like to have a conversation as well. I stand in, in favor of the bill. I have a few questions about it. I have a father that was on a volunteer for 35 years, a volunteer fire department, and I'm quite certain that he had plenty of PTSD or whatever. There were over 1,000 people that came to his funeral and many people came up to tell me some of the rescues that he was on that he never talked about at home. So with that said, some of the questions that I would have, Senator Brewer or Senator-- actually, Senator McDonnell, I'd like to ask if he would answer a few questions.

HUGHES: Senator McDonnell, will you yield?

MCDONNELL: Yes, I will.

ALBRECHT: And thank you, Senator McDonnell. The reason I ask you is because you are aware of the volunteers I know from-- and not that I wouldn't think Senator Brewer was because he was on a department-- but this bill, the way it's written, if you have a firefighter that's too proud to go for help, doesn't want to be listed as somebody who has had an issue with a call and just couldn't get through it and get over it or-- so if they have to have a practitioner actually tell them that you are going through this and you should probably go through some training to get through it-- I mean, the way I always watched it for 35 years with my dad is, is-- the, the way they got through it is the camaraderie of all the other volunteers, the community, the families. So, so my concern-- and I just hope that in this bill-- when I see the fiscal note that's there, number one, I question what is it that, that is going to happen to somebody that says that they've had a problem with this? Does, does a team of people come in right away after a bad

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

incident and, and sit down with everyone? Or do you wait until somebody-- it's gone too far; that, that they need help and it might be too late because you aren't acting on it quickly enough? Can you walk me through how this happens; how you identify the person that has the issue or the, or the volunteer group that's gone through a tragic scene? Tell me how this works. Help me understand how this fiscal note is very large. But if we're not going to have people that actually engage in it, are you saying that you're going to make them have this training every single year and that's why the fiscal note is what it is? Or is it just going to be per incident, based on when things happen and then you react? So I'll give you the floor.

McDONNELL: I knew Senator Albrecht's father and he is missed. The 35 years he dedicated to the fire service and, and helping people was a great example to me. I'll try to answer your questions. The idea of setting up the prima facie evidence-- if you look in the bill, the idea of what happens when you go in front of a workers' comp court-- but what we are trying to do is say, OK, if we got the resiliency training and we do it on an annual basis, you're still going to have those instances where post-incident, you actually have a debriefing. And there's going to be people that are going to be affected because of that call. This is basically once a year to do the resiliency training, to make sure, based on the idea of some of these events, being that [INAUDIBLE] just took effect, where it's going to build in a person-- and then we're looking at that, that, that brain injury to that individual. What we're trying to do is make sure that we recognize this is going on, that some people are dealing with it-- some first responders are not-- but that we put something in place to where they know they have a course--

HUGHES: One minute.

McDONNELL: --a resiliency; the training is there for them, but also that we are recognizing it. And-- but this still doesn't take away from your original question about if there's an incident that happens tomorrow and people are affected, they have the opportunity for that help. Now this is trying to do-- it's trying to establish that annual training throughout the state for all first responders.

HUGHES: There's still time left.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

ALBRECHT: OK. Can I talk? Thanks. Thank you again, Senator McDonnell. So the fiscal note is basically to cover the whole state to get this training in once a year, is that right?

McDONNELL: Yes. We want to make sure that all first responders have the opportunity to have the resiliency training.

ALBRECHT: OK. So again--

HUGHES: That's time, Senators.

ALBRECHT: OK.

HUGHES: Thank you, Senator Albrecht and Senator McDonnell. Mr. Clerk for announcements.

ASSISTANT CLERK: Thank you, Mr. President. The Planning Committee will meet under the north balcony at 11 o'clock.

HUGHES: Thank you, Mr. Clerk. Senator Albrecht, you are next in the queue.

ALBRECHT: Thank you again, Senator McDonnell. So help me understand again. You have a firefighter that is very proud of what he does in his work and he wants to try to get through this on his own. If he does not elect to get the-- to go to the doctor and, and be diagnosed with, with this PTSD [SIC], what, what happens then? And then take it a step further-- if he does get diagnosed with it and-- does that prevent him from, from staying with the department? Or would it hurt him in his other-- outside of the volunteering aspect of it with anything else? Would he, would he fear that? Would he have a reason to push back or is this truly something that all volunteer firefighters and paid guys want to see for the, for the right reasons?

McDONNELL: To have that individual that says I do not want to participate, that is up to that individual. But what we're also trying to establish here is, is based on the idea of if it becomes an injury where they no longer can perform and now it becomes a workers' compensation issue-- the idea of what we set up in having the ability to go through the resiliency training; knowing that at the beginning of their career they did have an evaluation. And based on what happened in their career, it caused them to have that, that mental injury. But for the idea of saying that every person is going to be forced to go through this kind of training for all first responders,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

that's not the, the goal. The goal is to make sure they know the training is there-- the resiliency training is there; that we're recognizing it, but also that we-- at the beginning of their career, we make sure that they had that evaluation and knowing what this kind of profession is going to do to them based on all first responders, that-- also, the idea that we should try to make sure those first responders have the ability to deal with that. But to say that we're going to order them all to deal with it in this way, that's not the intent of the bill.

ALBRECHT: Thank you.

HUGHES: Thank you, Senators Albrecht and McDonnell. Seeing no one else in the queue, Senator Hansen, you are recognized to close on committee amendment, AM2523. Senator Hansen waives closing. The question for the-- the question is, shall the committee amendment to LB963 be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

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

HUGHES: The amendment is adopted. Discussion on the advancement of LB963 to E&R Initial? Seeing no one in the queue, Senator Brewer, you are recognized to close on LB963.

BREWER: I think we've talked enough on this. Let's go ahead and have a vote.

HUGHES: Thank you, Senator Brewer. The question is the advancement of LB963 to E&R Initial. All those in favor of vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

ASSISTANT CLERK: 42 ayes, 0 nays on the advancement of the bill, Mr. President.

HUGHES: The bill advances. Mr. Clerk, we will proceed to General File LB963A.

ASSISTANT CLERK: LB963A introduced by Senator Brewer; it's a bill for an act relating to appropriations; to appropriate funds to carry out the provisions of LB963.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

HUGHES: Thank you, Mr. Clerk. Senator Brewer, you are open-- you are recognized to open on LB963A.

BREWER: All right. Again, this is the fiscal note associated with LB963. It is \$442,500. Again, this is primarily for the training initially. And I would ask for your support on LB963A.

HUGHES: Thank you, Senator Brewer. Discussion is now open on LB963A. Seeing no one in the queue, Senator Brewer, you are recognized to close on LB963A. Senator Brewer waives closing. The question is, shall LB963A be advanced to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

ASSISTANT CLERK: 36 ayes, 0 nays on the advancement of the bill, Mr. President.

HUGHES: The bill advances. Items, Mr. Clerk.

ASSISTANT CLERK: Thank you, Mr. President. Your Committee on Enrollment and Review reports LB962 to Select File with amendments. Committee on Appropriations reports LB780 placed on General File and LB910 placed on General File with committee amendments attached. The committee on Transportation and Telecommunications reports LB128 as indefinitely postponed. LB215, LB371, LB546, LB612, LB691, LB697, and LB1130-- no-- LB697 all as indefinitely postponed. The Committee on Revenue reports LB1130 is placed on General File. That's all I have at this time.

WILLIAMS: Thank you, Mr. Clerk. Senator Lathrop would like to recognize 50 fourth-grade students from Wildewood Elementary in Ralston. They are seated in the north balcony. If you would please stand and be recognized by your Nebraska Legislature? Back to the agenda. Mr. Clerk.

ASSISTANT CLERK: Mr. President, the next bill is LB840, which was introduced by Senator Quick and others. It's a bill for an act relating to the Nebraska Clean Indoor Air Act; to prohibit the use of electronic smoking devices as prescribed; to define and redefine terms; to harmonize provisions; and repeal the original sections. The bill was introduced on January 8 of this year, referred to the Health and Human Services Committee. That committee placed the bill on General File with committee amendments.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

WILLIAMS: Thank you, Mr. Clerk. Senator Quick, you are recognized to open on LB840.

QUICK: Good morning, colleagues, and thank you, Mr. President. Good morning, colleagues. This is LB840, which would amend Nebraska's Clean Indoor Air Act to include electronic smoking devices such as e-cigarettes and vapes. LB840 is my personal priority bill this, this year because I am committed to keeping these dangerous products out of the hands of our young people. These products should be included in the Clean Indoor Air Act because they are harmful to users and bystanders and not including them undermines the public health impact of the law. LB840 would bring our statutes up to date to reflect new smoking technologies. Last year, you joined me in regulating electronic nicotine delivery systems or ENDS devices in Nebraska law by requiring retailers to be licensed and raising the age of purchase of these products to 19. Since then, our country has witnessed an epidemic of vaping-related illnesses that has left hundreds across the U.S. ill and caused at least one death here in Nebraska. The Surgeon General has recommended that e-cigarette products be included in smoke-free air policies as part of the effort to keep these devices out of the hands of our youth. Electronic smoking devices do not produce harmless water vapor. They produce aerosol vapor that can expose bystanders to nicotine, volatile organic compounds, and heavy metals, along with other ultrafine particles that go deep into the lungs. Adding them to our Clean Indoor Air Act is important not just to prevent exposure of unwitting bystanders to chemicals and vapor, but to ensure that impressionable youth don't see vaping and e-cigarette use as common and a safe alternative. When we initially passed the Clean Indoor Air Act, it helped parents to realize it wasn't safe to smoke around your kids because of secondhand smoke. Because these products aren't currently in the Clean Indoor Air Act, people think it's OK to vape around their kids. Children see, children see what we do and they hear what we say. And sometimes they, they do what we do. That's why adding these products to the Clean Indoor Air Act is so important. We know that children who are exposed to vaping begin to see it as a normal-- not dangerous and even healthy. And we've learned that including cigarettes in clean air policies has helped reduce the rate of traditional smoking. Including vapor products into clean air policies will help reduce the prevalence of people vaping and help people realize that it isn't safe to use, to use, especially around our children. I've worked closely with the American Cancer Society to ensure the definitions of this bill are

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

comprehensive and will cover future vaping technologies that exist in other markets and will be making their way to the U.S. I very much appreciate their help on this issue. I've also worked closely with school leaders and public health officials on this topic over the last year. This bill was supported at the public hearing by public health departments, the American Cancer Society, the American Heart Association, and the Nebraska Hospital Association. Former-Senator Don Preister, who worked to pass the current Nebraska Clean Indoor Air Act, also sent a letter in support expressing that the legislation was intended to cover future product advancements and technology changes. I want to make it clear that electronic smoking devices contain harmful chemicals and these chemicals can be dangerous to those exposed, exposed to them secondhand. We have decided, as a Legislature, that our citizens deserve to have clean air to breathe in their workplaces and public spaces. If we don't add these devices to our Clean Indoor Air Act, we are failing to uphold that promise. I would appreciate your green vote on LB840. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Quick. As the Clerk stated, there are amendments from the Health and Human Services Committee. Senator Howard, as Chair of the committee, you are recognized to open on the amendments.

HOWARD: Thank you, Mr. President. Good morning, colleagues. AM2512 replaces the green copy and becomes the bill. All provisions of the green copy are included in AM2512 and new sections are added to allow the use of electronic smoking devices at electronic smoking device retail outlets, which are basically vape shops-- that's Legislature speak for vape shops-- for purposes of the Nebraska Clean Indoor Air Act. These changes were made to address some of the concerns of the Nebraska Vape Vendors Association. AM2512 adds Section 5 to define "electronic smoking device retail outlet" as a licensed business that only sells electronic smoking devices or products related to electronic smoking devices. Products directly related to electronic smoking devices do not include alcohol, coffee, soft drinks, candy, groceries, or gasoline. Section 5 also does not allow a person under the age of 21 to enter the store. AM2512 also amends Nebraska Revised Statute 71-5717 and Nebraska Revised Statute 71-5730 to include electronic smoking device retail outlets as exempt entities under those provisions of the Nebraska Indoor Clean Air Act. The bill as amended was advanced from committee with 6 ayes, 0 nays, and 1 present, not voting. Thank you, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

WILLIAMS: Thank you, Senator Howard. Debate is now open. Senator Pansing Brooks, you are recognized. Senator Pansing Brooks is not on the floor. We will move to the next in the queue. Senator La Grone, you are recognized.

La GRONE: Thank you, Mr. President. I have some concerns about the definitions in AM2512 and consequently, LB840. The way I read it-- and, and Senator Quick, I'll ask you a question on this in a second, but I'll lay it out so you can understand what I'm asking before I ask it. The way I read it, the bill creates three requirements for something qualifying as an electronic smoking device that is now prohibited in a public place under the Clean Indoor Air Act. Number one, under Section 6, it has to create an aerosol or vapor. Number two, under Section 4, it has to contain a substance intended for human consumption. And then number three, it has to be able to be used for inhaling a vapor or aerosol. Now my reading of these sections and how they work together seem to me that it would encompass a lot of other things beyond just vaping products. For example, I will read you a, a note from-- on-- excuse me-- inhalers that are used to treat asthma. One method of treating asthma is an inhaler treatment. The most common method for treating asthma is inhaler treatment that delivers the medication through an aerosol to be inhaled by the person using the treatment. Now to me, that medication would be a substance intended for human consumption. It is in a device that creates an aerosol and it can be-- it is used for inhaling a vapor or that aerosol. So it seems the definition here would cover a lot more than just vaping products. It would certainly cover asthma medication. It could also include humidifiers, as water often is a, is a product intended for human consumption. A humidifier creates that vapor and that vapor can be inhaled. So I don't think that that is what this definition is trying to get at, but I do think that this definition is overbroad and could criminalize a lot of products that we see in our everyday use. For example, there are also-- I think humidifiers and asthma medication clearly are banned under this definition. My question would be there are some other products on the outskirts of these definitions, for example, Febreze, that could be seen as falling under it? That one's a little more gray, but I think there's a lot of, of questions around this definition. So would Senator Quick, yield to a question?

WILLIAMS: Senator Quick, would you yield?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

QUICK: Yes.

La GRONE: Senator Quick, I, I would imagine that it's not your intent to criminalize asthma treatment or humidifiers, is that correct?

QUICK: Yes. No, that would be, that would be correct.

La GRONE: So is there work that can be done on that definition because would you agree that-- I mean, did I, did I understand the bill properly? Are those the requirements for-- to qualify under this bill?

QUICK: Well, actually, it says delivering nicotine. So I don't think any of those products contain nicotine.

La GRONE: So that's, that's actually-- in Section 6, that's not what the bill indicates. In the last sentence in Section 6, it adds to smoking the term-- for smoking, the term includes the use of a "smoking device which creates an aerosol--" or "an electronic smoking device which creates an aerosol or vapor, in any manner or in any form." And then "electronic smoking device" is defined as "means any product containing or delivering nicotine or any other substance intended for human consumption." So by the definition in the bill, it doesn't have to contain nicotine. Am I reading that correctly?

QUICK: And, you know, that's something we can look on-- look at, even between here and Select, if that's something we need to address. But I know down further in Section 4, it does say the term includes--

WILLIAMS: One minute.

QUICK: --such devices that regardless of whether it's manufactured, distributed, marketed, or sold and it defines e-cigarette, e-cigar, e-pipe, e-hookah, vapor pen under other product names, so--

La GRONE: Yes, I mean, it does include what is included, but it also-- by the, the plain meaning of the term "any product for human consumption," I think that brings in a lot of products that we are not intending to bring in here. And I think there's ample case law, both at the Nebraska Supreme Court level and at the federal level, that look at the term "any" or "all" and what they mean in the context of legislation. And they're not ambiguous. They're not vague. They are very clear. It means any. Any means any. It means anything that can qualify under that. So I think that we have some serious issues with this definitional piece. I think we're banning a lot of products that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

we could use in our everyday lives inadvertently. And so I think that's something that we'll need to take a look at as we continue this debate. Thank you, Mr. President.

WILLIAMS: Thank you, Senator La Grone and Senator Quick. Senator Slama, you are recognized.

SLAMA: Thank you, Mr. President. I think Senator La Grone raised some very valid concerns that I wanted to build on on this turn at the mike because it is a pretty complex issue. And I think it is a definitional issue that we can address and clear up because the way I'm reading it as well, it looks to me to ban inhalers, humidifiers. So people often put their essential oils in humidifiers for human consumption. I do think it's a little bit more clear cut that Febreze would fall under this definition because even though it's not made for inhalation, to have any type of effect of getting high or changing your breathing, it's intended to cause a smell. So I would read that definition as including Febreze. So just to reiterate where I'm coming from here, I'm starting in Section 4. "Electronic smoking device means any product--" so any product-- "containing or delivering nicotine or any other substance intended for human consumption that can be used by a person in any manner for the purpose of inhaling vapor or aerosol from the product--" so any substance, anything that a person could be inhaling, vapor or an aerosol, from the products. "This term includes any such device, regardless of whether it is manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen or under any product name or descriptor." So again, this is a broad sentence that indicates literally anything that produces a vapor or aerosol intended for human consumption. I see a gray area of even hair spray. It's not intended for human inhalation, but it's intended for human consumption in terms of use on hair. That's a very expansive definition. And then we head on down to Section 6. "Smoke or smoking means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, hookah, or other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, in any manner...in any form. The term includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form." So it's important that we look at that sentence as we double-back up to Section 4; that last sentence. "The term includes any such device--" the term being an electronic cigarette-- any such device, regardless of whether it is manufactured, distributed, marketed, or sold as an

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

e-cigarette or is any one of these products. And I was wondering if Senator Geist would yield to a question? Yes.

WILLIAMS: Senator Geist, would you yield?

GEIST: Yes, I would.

SLAMA: Good morning, Senator Geist.

GEIST: Good morning.

SLAMA: So I just wanted to check in with you. Do you use a humidifier regularly?

GEIST: Only in my office, not at home.

SLAMA: OK. Do you consider that to be an e-cigarette in any way, shape, or form?

GEIST: I am nicotine free.

SLAMA: OK, but it does produce, like, a vapor, right? That's the point of the humidifier. It produces a vapor--

GEIST: It does.

SLAMA: --that you inhale? All right. Thank you, Senator Geist. So I just want to make sure that in this bill we're being very clear about our definitions because we don't want to be charging kids with asthma with misdemeanors or senators who happen to have humidifiers in their offices with misdemeanors. I don't think that's the intent of the bill. I hope that we can tighten up this language because until that happens--

WILLIAMS: One minute.

SLAMA: -- I oppose to LB840 and AM2512. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Slama and Senator Geist. Senator Lowe, you are recognized.

LOWE: Thank you, Mr. President. At the present time, I'm opposed to LB840 and AM2512. Along those same lines that we were just talking about, I started thinking. I started thinking about vapors and the, the humidifiers that we have in our rooms, that we have for our sick

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

children at home where we put an additive into it so that they feel better. Would this affect those machines? And then I went a little step further and I thought, what about the humidifiers that we attach to our furnaces in our buildings to keep static electricity down? That puts water vapor into our air to eliminate the static electricity. With that, I'd like to yield the rest of my time to Senator La Grone.

WILLIAMS: Thank you, Senator Lowe. Senator La Grone, you are yielded 4:00.

La GRONE: Thank you, Mr. President. And I just want to build off of what Senator Lowe was just saying right there. I don't-- so this clearly wouldn't affect any humidifiers for home use or any humidifiers in a home since we're only dealing with the public areas. However, it would-- if I-- as I read it, it would certainly affect humidifiers in a public place like in Senator Geist's office, as she, as she was talking about, because water, especially in a humidifier, which uses a bottle of water or water you can get from a drinking fountain, is clearly a substance intended for human consumption. And the humidifier creates a vapor and that vapor can be inhaled. And so under this broad definition, I think it's pretty clear that it would qualify as an electronic smoking device and therefore, be prohibited under the Clean Indoor Air Act and qualify as a misdemeanor. So I think there's a lot of work that we have to do around these definitions. So that's, that's something I think that we're going to need to work with Senator Quick on and Senator Howard if we want to move this bill forward. Would Senator Howard yield to a question on that point?

WILLIAMS: Senator Howard, would you yield?

HOWARD: Yes, I will.

La GRONE: Senator Howard, is that concern clear, like, is that making sense; what I'm pointing out?

HOWARD: Yeah, absolutely. And I actually think it's very fixable--

La GRONE: OK.

HOWARD: --in the language as written. I think it's something that can be very easily addressed between now and Select. And I will personally help you fix that.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

La GRONE: OK. Because it-- thank you, Senator Howard. I think that's something that we're going to have to clamp down on because as, as folks have pointed out, I think it would be a serious problem if we criminalized humidifiers in our offices or, as Senator Slama pointed out, the Febreze question. I think that might mean-- I think we have Febreze up on the 11th floor joint restrooms so I think that might make all the senators on the 11th floor criminals. So hopefully we don't do that. I don't want to accidentally commit a misdemeanor by allowing Febreze to be used in that restroom. So I think there are a lot of issues around what aerosol products qualify. That's something I think remains to be worked out; that we're going to seriously have to look at if we want to move this bill forward. That's all I would have at this time. Thank you, Mr. President.

WILLIAMS: Thank you, Senator La Grone and Senator Lowe. Senator Slama, you are-- waived. Thank you. Seeing no one in the queue, Senator Howard, you are recognized to close on the committee amendments.

HOWARD: Thank you, Mr. President. I appreciate the discussion today on AM2512. And just as a reminder, it addresses the concerns of the Vape Vendors Association around allowing vaping to continue in, sort of, vaping shops, which are in the legislation called "electronic smoking device retail outlets." It also does not allow a person under the age of 21 to enter the store. I appreciate the discussion today about humidifiers. I wonder if we were also creating a really amazing sine die sketch today. And so I'm really looking forward to working with Senator La Grone and Senator Slama and Senator Quick on addressing the language in AM2512 to tighten it up to make sure we're not doing anything inadvertent. I'm a big fan of my travel humidifier and so I don't want to have to stop using it because of this legislation. So thank you, Mr. President. I would urge the adoption of AM2512.

WILLIAMS: Thank you, Senator Howard. The question, members, is shall the committee amendments to LB840 be adopted? All those in favor vote aye; those opposed vote nay. Have all voted that wish? Record, Mr. Clerk.

ASSISTANT CLERK: 29 ayes, 4 nays on the adoption of committee amendments.

WILLIAMS: The amendment is adopted. Returning to the queue, Senator La Grone, you are recognized.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

La GRONE: Thank you, Mr. President. I wanted to touch on something Senator Howard said in her closing. It was my understanding that this amendment does not address the concerns of the Vape Association. So if that's-- if we have a, if we have a disconnect there, that's something we can talk about off the mike. And in order to facilitate that conversation, I'll yield the remainder of my time to Senator Slama.

WILLIAMS: Senator Slama, you are yielded 4:38.

SLAMA: Thank you, Senator La Grone. So I appreciate Senator La Grone bringing up that point about the Vape Vendors Association. So we did all receive-- at least I did and several other senators received an email from the Vape Vendors Association clarifying that the vape vendors are not, are not totally onboard with this amendment. So their effort was to exclude vape shops, which I believe is addressed in the amendment, which now that we've adopted, criminalizes kids who use inhalers. But I just wanted to make it clear that it's my understanding that the vape vendors' concerns aren't-- have not been addressed in entirety. And I'm going to continue checking if we continue discussion on this bill just to make sure, but I want to make sure that we're saying accurate things, especially lobby positions on the bills on the floor. So thank you, Mr. President.

WILLIAMS: Thank you, Senator Slama and Senator La Grone. Senator Slama, you are next in the queue. She waives. Mr. Clerk for an amendment.

ASSISTANT CLERK: Mr. President, Senator Wayne would move to amend with AM2598.

WILLIAMS: Senator Wayne, you are recognized to open on your amendment.

WAYNE: Thank you, Mr. President. Those who remember last year when we had vaping, it was quite a long conversation between myself and Senator Quick and we're going to go down that path again today. But there is an amendment that we're trying to work out, but it won't be ready today. But what this amendment does is very simple. This amendment does two things. First, it says that if you own a vape shop, people who come into a vape shop should be able to smoke in a vape shop. It makes sense. If you're going to buy the product, you should be able to smoke in the vape shop. We are going to treat this much like we do cigars. So if there is a cigar bar or a cigar lounge or a cigar shop, you can smoke cigars within that shop. That is exempted

from the Clean Indoor Air Act. That just makes sense. Oftentimes, there are other customers there, particularly around vaping products-- also cigars-- that while they're sitting there smoking, they may want to try a different brand or a different type. That increases sales. That's why it's important to exempt those who are actually a vape shop to be able to use this product. Now I do understand Senator Quick's concerns regarding grocery stores, restaurants, gas stations. We don't want people to vape necessarily in there. So what we're trying to do is come up with an amendment. So to give the body a little bit of history, when the cigar bars or cigar lounges were exempted from this Clean Indoor Air Act underneath tobacco, they created a special license. And in that license, you can't sell food and you have to be 21, i.e., a bar. So if you sell cigars, that's a regular-- if you sell tobacco products, that's just a regular tobacco license. Even if you sell cigars, it's a regular tobacco license. But if you are a cigar bar, that is a special license. The problem with the vape-- and quite honestly, the problem with a, a short session-- is we would have to create a whole new license for a vape lounge. And so we are trying to work around a way to do that without having to create a whole new license and basically make Senator Quick's bill very "uncumbersome" to small vape shops who have to keep track. So part of the other thing about the cigar bar or the cigar lounge is a certain percentage of your sales have to come from cigars, i.e., if you're a cigar lounge, the reason you have this exemption is to sell cigars. So there is also a requirement that you have a certain percentage sell cigar-- or a certain percentage of your income comes from the sale of cigars. Without going through all of that, because many of these vape shops are not necessarily selling alcohol and doing, you know, 100, couple hundred thousand dollars in business, but they're small retail shops, we didn't want to add that burden. So we're trying to figure out a way to do it. And we came up with two kinds of solutions. And so basically, I guess I'm going to talk till noon so we can get a draft so we can have it ready for tomorrow. And maybe all the opposition except for Senator La Grone's overbroad definition, which I do agree with is a problem, should be able to go away. And so the two items we're trying to figure out is if you sell food. So if you sell food or candy, that would cover all the gas stations, that will cover all the grocery stores, that would cover everything. But I don't know-- going to definitions, I don't know if what the candy on Senator Pansing Brooks's desk is considered food. And if they may give those away for a nickel, does that disqualify them? So now we're looking at the definition of if you let anyone in the premises under 21. So

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

theoretically, with, with vaping going to 21 from Senator Quick's bill, I know there is another-- a couple other bills moving vaping to 21-- obviously, vaping shops would not-- vaping shops would not allow people in if they're under 21. So if we say with this license-- as long as you don't allow people under 21 in, you can go ahead and vape within your, your, your vape shop. So we're working on that amendment to make it logical. It's common sense. If you operate a vape shop and if I'm going in to buy a vape product, I should be able to smoke vape in the vape product because that's what I'm going-- I mean, the shop; that's what I'm going for. And if you're somebody else over there saying, hey, do you want to try this one, I should be able to take a hit. Now, I don't mean a hit of anything else. And when I say hit, don't get confused here. But-- a little humor, lighten it up a little bit. It's Wednesday. Come on, calm down. But the point is it just makes sense that if you operate in a vape shop, they should be able to smoke in the vape shop. That makes it really ironic that-- that's like-- I don't know, it just doesn't make any sense. The second thing it does is it also treats the vaping industry and the vaping exception no different than we do cigars in the sense that there is preemption. We want it to be the same for businesses across the, across the state and we did that with cigars. So if you want to open a cigar bar or cigar lounge in Omaha, it's the same process as if you want to open it in-- or the same restrictions as if you want to open it in Kearney, if you want to open it in Gering. And we did that because we, as a state, have said when it comes to tobacco products, we know what's best across the state. Whether we agree with that or not, we've said that. We've put a preemption based on the Clean Indoor Air Act that across the state, it's uniform. Well, that's the second part of my amendment that says this part is completely uniform; that we're going to create an exception for vape shops like we did cigar lounges. And in that, it's got to be the same. Now I believe Grand Island and Lincoln have local ordinances that would be affected by this. I'm being transparent about this, but that's primarily because we didn't address the issue. The reason why there is not local ordinances for cigar bars or cigar lounges is because we already preempted it when we enacted the law in the first place. This is backwards because vape came before the law came and that's why local-- there's some hodgepodge. So we're willing to, to solve that issue. So that's the goal of this amendment. I'm willing to go 22 minutes. I'm willing to talk about property taxes. I'm willing to talk about gambling. I'm willing to talk about anything to get this amendment going. I think we have a pretty good agreement on where it should go. And I think Senator Quick and I are going to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

hammer this out. Unlike last year, where it took weeks, I think we'll be able to get it done within 24 hours. I just want to make sure we don't advance a bill that I think has some basic flaws in it with not exempting vape shops from allowing people to vape in their shop. I think it's important that we do uphold the, the spirit of the bill, which is to make sure grocery stores and those kind of things don't have vape in it. Now, while I disagree-- I don't believe vaping causes harmful products that are byproducts. I don't think it's anywhere close to tobacco and studies have shown that. In fact, when people point to people getting sick on vaping, it is also-- it's actually all the time in the black market industry regarding products-- really cut with vitamin E and vitamin D oil, which we can talk about any time. But the fact of the matter is, is vaping reduces overall tobacco use. Vaping is actually championed, oftentimes, by the medical industry. And what's weird is in General Affairs, we had two vaping bills and-- trying to limit vaping and the Cancer Society came in against it, which I always thought was interesting because they're the ones who say tobacco is bad and causes cancer, but they're saying, hey, you shouldn't restrict vaping. So the point of it is, is-- I think, overall, this bill is premature in a sense on the, on the data. But I do see the willingness of this body to move something forward. And I think when the data comes out, we're probably going to have to move this back. I do think, for conservative colleagues, it's interesting that we believe in the free market, except for when it comes to tobacco products. We believe in--

WILLIAMS: One minute.

WAYNE: --big government when it comes to tobacco products that you can't smoke anywhere, you can't do anything. And as a local bar, I could probably make a lot more money being the only bar in Omaha that allows smoking. Now, I wouldn't be there because I hate the smell of smoke, but I can make some money in the process because there's no bar that allows smoking. And actually in cigar bars, you're not allowed to smoke cigarettes. It's the oddest thing. That's part of the statute. So you can smoke a cigar, but you can't smoke a cigarette. But-- so, you know, maybe we ought to look at Justin Wayne, LLC coming up with an exception to allow, you know, one or two bars across the state. I think, Senator Dorn, we can make some money in your area being the only bar that allows smoking. But as you see, I've wasted ten minutes right now and I got 20 more to go so we'll just keep talking and having fun. Thank you, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

WILLIAMS: Thank you, Senator Wayne, and you are next in the queue.

WAYNE: Thank you. I am going to yield Senator Wishart my time.

WILLIAMS: Senator Wishart, you are yielded 4:50.

WISHART: Thank you, Mr. President. I actually agree with some of the amendments, suggestions that Senator Wayne is bringing. I also appreciate the work that Senator Quick has done to address an issue that, that can be a public health issue. And so we need to do something in this state. I did want to ask Senator Wayne, though, a question. Senator Wayne, I thought I heard you mention potentially preemption?

WILLIAMS: Senator Wayne, would you yield?

WAYNE: Yes, I'll yield some of my time back to me. That's great.

WISHART: So, Senator Wayne, did you mention the idea of preemption in terms of the state taking away the control of local communities to address this issue as they see fit?

WAYNE: Yes, I did say that my bill-- this amendment does have state preemption the same way we do cigars.

WISHART: OK. Well, that's an issue that I would like to talk with you more about and Senator Quick about as well. Philosophically speaking, I tend to be on a high alert when I hear the word "preemption" because I believe that for the most part, control and decision-making should be done and is best done at the "loalest" level possible. And so I would have some concerns moving forward if we were going in the direction of disallowing local communities from making these kind of decisions on their own as well. But generally speaking, on a lot of the other issues, Senator Wayne, I agree that from hearing from business owners in my district that have vape shops, that it makes no sense that we wouldn't allow vaping within those stores. I do also want to put out there that there may be vape stores that predominantly sell vaping products, but also sell other products as well. And so I want to-- I would want to ensure that we weren't hindering their business opportunities in that way with this bill moving forward. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2020

WILLIAMS: Thank you, Senator Wishart and Senator Wayne. Mr. Clerk for announcements.

ASSISTANT CLERK: Thank you, Mr. President. Your Committee on Banking, Commerce and Insurance reports LB774 and LB808 both as placed on General File with amendments attached. Amendments to be printed: Senator Crawford to LB1131, Senator Morfeld to LB1042, and Senator McDonnell to LB448. Name adds: Senator Lathrop to LB779, Senator Hunt to LB1078. An announcement that the Natural Resources Committee will hold an Executive Session at 2:30 today in Room 1525. Finally, a priority motion: Senator Moser would move to adjourn until Thursday, February 27, 2020, at 9:00 a.m.

WILLIAMS: Members, you've heard the motion to adjourn. All those in favor say aye. Opposed? We are adjourned.