

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 8, 2022

FOLEY: Good morning, ladies and gentlemen. Welcome to George W. Norris Legislative Chamber for the twenty-first day of the One Hundred Seventh Legislature, Second Session. Our chaplain for today is Senator Kolterman. Please rise.

KOLTERMAN: Please join me in a word of prayer. Dear Lord, thank you for the refreshing four-day weekend we just experienced. As we start the final 40 days of this session, keep us focused on doing what is pleasing to you and what is in the best interest of the great state of Nebraska. Give us the ability to work together for the greater good of those who aren't as fortunate as all of us. Continue to bless us with wisdom, good health, forgiveness, and a spirit of love for one another, for as you once said, Lord, love one another as I have loved you. Amen.

FOLEY: Thank you, Senator Kolterman. I now recognize Senator Hughes for the Pledge of Allegiance.

HUGHES: Good morning, ladies and gentlemen. Would you please join me in the pledge. I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

FOLEY: Thank you, Senator Hughes. I call to order the twenty-first day of One Hundred Seventh Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

CLERK: I have no corrections.

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

CLERK: There are, Mr. President. First of all, Senator Brandt would like to announce he has selected LB543 as his priority bill for this session. Judiciary Committee, chaired by Senator Lathrop, reports LB519 and LB543 to General File with committee amendments attached. Hearing notices from Health and Human Services, Government Committee, and the Urban Affairs Committee, all signed by the respective Chairs. Enrollment and Review reports LB450A to Select File. Enrollment and

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Review also reports LB376 as correctly engrossed. And that's all that I had, Mr. President.

FOLEY: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following two legislative resolutions: LR289 and LR290. Senator Kolterman would like us to recognize Dr. Pat Hotovy of York, Nebraska, who's serving us today as family physician of the day. Dr. Hotovy is with us under the north balcony. Doctor, if you could please rise, like to welcome you to the Nebraska Legislature. Senator Albrecht has some guests visiting today. We have 16 citizens from the Leadership Wayne Class XIII, Wayne, Nebraska, up in the north balcony. If those citizens could please rise, like to welcome you to the Nebraska Legislature. And Senator Walz has 70 guests with us, the state officers in all seven career and technical student organizations, all with us up in the north balcony. If those individuals could please rise so we can welcome you to the Nebraska Legislature. Members, we'll now move to the agenda, General File consent calendar. You might want to take a look at those rules relevant to consent calendar. First bill, Mr. Clerk.

CLERK: LB592 by Senator Stinner. It's a bill for an act relating to Automated Medication Systems Act. It provides for the use of automated medication distribution machines. Introduced on January 20 of last year. At that time, referred to Health and Human Services Committee, advanced to General File. There are committee amendments, Mr. President.

FOLEY: Thank you, Mr. Clerk. Senator Stinner, you're recognized to open on LB592.

STINNER: Thank you, Mr. President, and members of the Legislature. LB592 allows assisted living facilities, which are co-located with long-term care facilities to utilize automated-- excuse me-- automated medication dispensing machines, provided procedures are followed regarding the Automated Medication Systems Act. This bill was brought to me by the Nebraska Department of Veterans Affairs last year to increase the efficiencies of its operation. Currently, there exists the automated pharmacy infrastructure in its long-term care facility. However, due to existing language in the statute, its assisted living facility within the same physical structure cannot use this machine, thereby having to dispense medications manually, which can be inefficient and time consuming. This bill is a fairly straightforward fix, which adds permissive language so that a dispensing machine located in a long-term care facility can be used across the hall in

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the assisted living facility. This bill still requires compliance with the Automated Medication Systems Act, but grants some flexibility for pharmacies that may not be able to utilize the efficiencies of an on-site dispensing machine. You also see there is a committee amendment under consideration, AM237, which is an agreement put together with the Nebraska Pharmacy Association to address concerns that they had with the use of prescriptions and the regulation of emergency doses. Chairman-- Chairperson Arch will speak to the, to the details of that amendment, which satisfies my agreement with the pharmacy association. I would like to thank Chairperson Arch and the Health and Human Services Committee for their work on the amendment and to my colleagues in the Legislature for your consideration. The bill was passed out of committee on an unanimous vote. With that, colleagues, I would urge you to vote green on LB592 and AM237.

FOLEY: Thank you, Senator Stinner. Senator Arch, you're recognized to open on the committee amendment.

ARCH: Thank you, Mr. President. Good morning, colleagues. AM237 to LB592 would amend language to clarify that medications dispensed from an automated medication system dispensed for a resident of an assisted living facility co-located within a long-term care facility must be pursuant to a prescription. It would also state that emergency doses may not be taken from an automated medication system prior to review by a pharmacist for residents of an assisted living facility co-located with a long-term care facility. This differs from removal of emergency doses for residents in a hospital or nursing facility. So, as Senator Stinner said, this language is technical, it-- but there are regulations that, that apply to skilled nursing facilities and assisted living facilities and we just needed to make sure that it was clear in the bill. So LB592 was advanced out of committee 7-0. I urge your green vote on the amendment and the bill. Thank you.

FOLEY: Thank you, Senator Arch. 11:45 remaining before the vote, does anyone care to debate the bill or the committee amendment? I see none. Senator Arch, you're recognized to close on the committee amendment. He waives closing. The question before the body is the adoption of the committee amendment, AM237. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 38 ayes, 0 nays on adoption of committee amendments.

FOLEY: AM237 is adopted. Any further discussion on the bill? Senator Stinner waives closing. The question before the body is the advance of

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LB592 as amended to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 40 ayes, 0 nays on the advancement of the bill.

FOLEY: LB592 advances. Next bill, please.

CLERK: Mr. President, LB754, was a bill originally introduced by Senator Bostar. It's a bill for an act relating to schools. It extends the commercial air filter pilot program. Introduced on January 5 of this year. At that time, referred to the Education Committee. The bill was advanced to General File. I have no amendments to the bill at this time, Mr. President.

FOLEY: Thank you, Mr. Clerk. Senator Bostar, you're recognized to open on LB754.

BOSTAR: Thank you, Mr. President. Good morning, colleagues. LB754 is a bill to extend the timeline of a study created by LB630, which passed last session, to include the 2023-24 academic year. To refresh your memory, LB630 tasked the Nebraska Department of Education, in consultation with the University of Nebraska, with the development and implementation of a pilot program to study the efficacy of commercial air filters in classrooms and their impact on academic and behavioral performance across the 2021-22 and 2022-23 school year. LB630 passed on Final Reading 44-2 last session, was signed into law by the Governor on May 25, 2021. LB754 advanced to the floor with unanimous support from the Education Committee and received no opposition testimony. Due to global supply chain challenges impacting many industries across the nation the last several months, the University of Nebraska researchers conducting the study were unable to obtain a sufficient number of air filters prior to the beginning of the 2021-22 school year. LB754 simply extends the timeline of the study to include the 2023-24 school year in order to assure a full two school years of data collection are available. The adjustment of the timeline has no fiscal impact and has been requested by the University of Nebraska researchers in order to ensure a scientifically significant data set for the results of the study. Given the potential impact that cleaner air can have on our educational environments and given what a simple adjustment LB754 creates, as well as supports that the Nebraska Legislature has already shown this project, it would be a missed opportunity not to provide a sufficient amount of time to the researchers conducting the study. I would encourage you to support LB754.

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FOLEY: Thank you, Senator Bostar. Any discussion on LB754? I see none. Senator Bostar, you're recognized to close. He waives closing. The question before the body is the advance of LB754 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

CLERK: 40 ayes, 0 nays on the advancement of the bill.

FOLEY: LB754 advances. Next bill, please.

CLERK: LB758, a bill originally introduced by Senator Brandt, relates to the Nebraska Farm-to-School Program Act; it defines terms; it changes provisions relating to the Nebraska farm-to-school program. Introduced on January 5 of this year, referred to the Education Committee, advanced to General File. There are committee amendments pending, Mr. President.

FOLEY: Thank you, Mr. Clerk. Senator Brandt, you're recognized to open on LB758.

BRANDT: Thank you, Mr. Lieutenant Governor. Good morning, colleagues. Today I'm asking for your support for LB758, a simple cleanup bill to include early childhood programs in the current farm-to-school program. Last year, I introduced and the Legislature passed LB396, which was a bill that expanded the scale and reach of Nebraska-produced food by creating a statewide farm-to-school program administered by the Nebraska Department of Education with the cooperation of the Nebraska Department of Agriculture. The bill created a full-time position at the Department of Education to administer the program and to provide networking resources for schools, vegetable and fruit growers, dry bean, grain, meat, egg, and dairy producers in Nebraska to increase the quantity of quality local food served in our school cafeterias. That bill passed unanimously from the Education Committee, was a Speaker priority bill, and passed unanimously on the floor. After the bill became law, a few folks reached out to the Nebraska Department of Education to ensure that early childhood programs would be included and unfortunately, the language that we passed last year was too restrictive so that assistance can only be offered to elementary and secondary schools. LB758 corrects this oversight and adds a reference in the farm-to-school program to the statute that defines early childhood education programs. Farm-to-school has immense support across Nebraska and is helping our kids, educators, producers, and the economy. With that, you will hear an explanation of the Education Committee amendment. I ask for your green vote on LB758. Thank you.

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FOLEY: Thank you, Senator Brandt. Senator Walz, you're recognized to open on the Education Committee amendment.

WALZ: Thank you, Mr. President. Good morning. AM1684 simply clarifies that the expansion of the farm-to-school program to early childhood programs includes any early childhood program licensed under the Child Care Licensing Act. This change is consistent with Senator Brandt's intent and allows NDE to provide technical assistance to all of these programs to help get the benefits of farm-to-school to even more kiddos across the state. The amendment does not add a fiscal note. I encourage your green vote on the amendment and the bill. Thank you.

FOLEY: Thank you, Senator Walz. Discussion on the bill and the pending amendment? Senator Clements.

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

FOLEY: Senator Brandt, would you yield, please?

BRANDT: Yes.

CLEMENTS: Senator Brandt, it wasn't clear to me what schools are eligible. Is this just public schools or also private schools?

BRANDT: Also private schools.

CLEMENTS: All right and so if a private school has an early childhood program, they're eligible for this with this bill?

BRANDT: That's my understanding.

CLEMENTS: Thank you. That's all I needed. Thank you, Mr. President.

FOLEY: Thank you, Senator Clements. Any further discussion on the bill or committee amendment? I see none. Senator Walz, you're recognized to close on the committee amendment. She waives closing. The question before the body is the adoption of AM1684 committee amendment. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

CLERK: 40 ayes, 0 nays on adoption of committee amendments.

FOLEY: AM1684 committee amendment has been adopted. Any further discussion on the bill? I see none. Senator Brandt, you're recognized to close. He waives closing. The question before the body is the

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advance of LB758 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

CLERK: 43 ayes, 0 nays on the advancement of the bill, Mr. President.

FOLEY: LB758 advances. Next bill, please.

CLERK: LB892, a bill originally introduced by Senator Walz. It's a bill for an act relating to the Nebraska Real Estate License Act. It changes provisions relating to restrictions on unlicensed persons, applicability of the act, and broker's license applications. Introduced on January 7 of this year, referred to the Banking, Commerce and Insurance Committee, advanced to General File. I have no amendments to the bill, Mr. President.

FOLEY: Thank you, Mr. Clerk. Senator Walz, you're recognized to open on LB892.

WALZ: Thank you. Good morning, everyone.

FOLEY: Members, please come to order.

WALZ: Good morning, everyone, and thank you, first of all, to Chairman Williams and his committee for hearing this bill and thank you to Speaker Hilgers for placing LB892 on the consent calendar today. LB892 was brought to me by the Real Estate Commission and is essentially a cleanup bill that clarifies in statute the way laws are currently being enforced. First, the bill makes clear that wholesalers-- these are people or individuals that enter into a contract for the purchase of real estate and then try to market that contract before taking title to the property-- require a real estate license. So, for example, wholesalers who would buy a house would enter into a purchase agreement and close in two months. Over the course of those two months, they sell their interest to someone else before closing or even owning the property. This is addressed in-- at the end of section 1-- at the end of Section 2, subsection (1). The Real Estate Commission has always interpreted the law this way, but they just prefer to have that in statute with a line to point to rather than having to get an attorney's opinion. This is a rare occurrence at the moment, but we're trying to have this cleaned up so it doesn't become a problem in the future. The second piece of this bill would remove the waiver by experienced procedures for those that have not had the statutorily required two years' experience required to become a broker. The-- that piece is addressed in Section 3, subsection (3)(b) by removing "equivalent or sufficiently relevant experience in a real

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estate related industry." So basically, we are ensuring that someone has two years of experience to become a real estate broker. To give a little bit more context, someone has to be a real estate agent first and work for a real estate agency. After two years, they can become a real estate broker where they can practice or start their own agency. Again, this bill is just a cleanup bill that makes sure we have in statute the way the law is being interpreted. There was no opposition to LB892 and the Realtors Association came in full support. With that, I'd be happy to answer any questions. Thank you, Mr. President.

FOLEY: Thank you, Senator Walz. Debate is now open on the bill. Senator Erdman.

ERDMAN: Thank you, Lieutenant Governor. Good morning. I was wondering if Senator Walz yield to a question?

FOLEY: Senator Walz, would you yield, please?

WALZ: I will.

ERDMAN: Senator Walz, thank you. So your, your last comment there, so someone could not take the required education and become a broker without two years of experience. Is that what you're saying?

WALZ: You would have to have two years of experience as a realtor before becoming a broker.

ERDMAN: That's not the way it is now, right?

WALZ: It's equivalent-- it says equivalent or-- just a second, sorry-- equivalent or sufficiently relevant experience. This codifies and says you have to have two years of experience--

ERDMAN: All right, so--

WALZ: --as a realtor.

ERDMAN: OK, let me see if I can clarify this a little. When I became a real estate agent back in '03, there was an option I could have become a salesperson or if I took more required classes, more hours, I could have become a broker. That provision will no longer be available?

WALZ: According to this, it says that you would have to have two years of experience before automatically becoming a broker.

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ERDMAN: So after two years of experience, I automatically become a broker or do I still have to test for it?

WALZ: No. No, you still have to test for it, Senator Erdman. I think you know better than that.

ERDMAN: OK, so you're saying we still have to take the test?

WALZ: Yeah, you sure do.

ERDMAN: OK. So what's the, what's the reason for changing that?

WALZ: It's just to make sure that someone has two years of experience and it's not just a, again, equivalent or sufficiency-- sufficiently relevant. I mean, what-- they're clarifying that.

ERDMAN: So had there been some problems with people who had gotten their broker's license directly when they first started into real estate? Has it been a problem? Is that why we introduced this?

WALZ: You know, I don't know the answer to that question. I, I mean, personally, I think it's important that everybody-- before just, you know, hanging up a shingle and saying that I'm a real estate broker, I think it's important that you do have two years of experience. So I would imagine that that's why this is so important.

ERDMAN: Do you know of anyone who became a broker directly from, from the general population who took the test and the required education and became a broker?

WALZ: I don't personally.

ERDMAN: I would assume there are some and if there is some, I don't, I don't see that it's a big problem. I don't know that those people have been doing things incorrectly. If they've had the necessary training--

WALZ: Did you-- I'm sorry, go ahead.

ERDMAN: Yeah, I, I think you're, I think you're a, a solution look-- a problem looking for a solution here. I, I don't think it's necessary to do that last part.

WALZ: I think it's just a clarification for the Real Estate Commission so there's no confusion.

ERDMAN: Well, there was no confusion before. You take the necessary classes and take the test, you become a broker. You take two-- you

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have two years of experience and you take the test and you pass, you become a broker. What's the confusion? There's none. I think the confusion is--

WALZ: That's your opinion, Senator Erdman.

ERDMAN: Yeah, well, that may be because I have common sense and this doesn't look like it's common sense to me. And so I think what it is-- I think this is what it is. I think it's a protectionist bill to make sure that not a lot of people get into real estate. That's all the questions I had.

WALZ: Oh, great. Thank you.

ERDMAN: I think that's what it is. We've done that before. We raised the number of hours of, of-- to recertify every two years and we did that and then we raised the standards of the test so it eliminated some people from getting into real estate. It's a protectionist attitude that they have. I don't, I don't know that this is a good idea. Either they pass a test, they understand what real estate brokerage is or they don't.

FOLEY: One minute.

ERDMAN: We continue to make it more difficult for people to get a job, for people to do their job because we have more stipulations and regulations in place. So I'm not in favor of LB892 if it has that qualification in it. Thank you.

FOLEY: Thank you, Senator Erdman. Members, there are eight minutes remaining. Senator Hilkemann, you're recognized.

HILKEMANN: Yes, thank you, Mr. Lieutenant Governor. Would Senator Walz answer a question for me, please?

FOLEY: Senator Walz, would you yield, please?

WALZ: Yes.

HILKEMANN: Yeah, there was, there was a period of-- what I'd like to know is if-- there was a period of time I was fairly active in the real estate market and when we would write a contract, we would put our names and, and/or assigns in case of a period that if, if you found someone that you wanted to sell the contract to or whatever before it closed, you could do that. Is that go away?

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WALZ: Yes, that would go away. Prior to it closing, you cannot-- you wouldn't be able to sell it prior-- your interest in a--

HILKEMANN: So you-- I could not assign that contract to another buyer?

WALZ: Are you selling it, Senator Hilkemann, or are you assigning it?

HILKEMANN: If, if you're the buyer, when we would buy property, we would write that in there so in case for some reason we had to get out of the contract and we wanted to assign it to someone else, we didn't have to go through another contract.

WALZ: OK. I guess I'm, I'm trying to-- sorry, I can't see you. I'm trying to decide are you, are you selling that interest, though, or are you just assigning it?

HILKEMANN: Let's say I brought property A and I put my name and I'd say I'm buying property A for \$500,000 and I'd have my name and/or assigns.

WALZ: OK, that's fine. That, that would be--

HILKEMANN: So that continues to work?

WALZ: Yes.

HILKEMANN: OK, thank you.

WALZ: I'm sorry it took so long to understand the question, Senator.

FOLEY: Thank you, Senator. Senator Clements.

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

FOLEY: Senator Walz, would you yield, please?

WALZ: Why sure, Senator Clements.

CLEMENTS: Similar situation, let's say my son's looking to buy a house, but he hasn't qualified for a loan yet so I go ahead and sign a purchase agreement to buy it, that he's going to then-- then I want to assign that purchase agreement to him so I don't close on the house. Have I become a salesman? Am I prohibited in that situation?

WALZ: No, you're not. Are you going through an attorney to do that or how-- like, what's the process that you're using?

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CLEMENTS: I got a purchase agreement on a piece of property with a realtor.

WALZ: Yeah, you don't have to have a realtor to sell a piece of property.

CLEMENTS: And--

WALZ: That's the answer.

CLEMENTS: --I'm not going to own the property. I'm not closing. I'm just assigning the contract to my son as soon as he gets qualified on his loan approval.

WALZ: So you're a--

CLEMENTS: I'm a buyer, but I'm not going to close, but I want my son to close on it and to assign the contract to him. Can I do that--

WALZ: I think that-- I think that there's-- so I think the, the issue is that you're selling your interest at a higher value than what you bought it for prior to closing on the property.

CLEMENTS: Oh, well, I would be selling it for the same price as the contract.

WALZ: Right, so I don't think that that's an issue. I think it's when you, as a wholesaler, buy a property with another person, for instance, and prior to you even owning the property or closing on the property, you sell your interest to Senator Blood--

CLEMENTS: You find a higher bid--

WALZ: --at a higher--

CLEMENTS: --a higher bidder.

WALZ: Yes.

CLEMENTS: OK, that's what's prohibited in this bill?

WALZ: Yes.

CLEMENTS: Thank you.

WALZ: Yep.

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CLEMENTS: Thank you, Mr. President.

FOLEY: Thank you, Senator Clements. Four minutes remaining. Senator Williams, you're recognized.

WILLIAMS: Thank you, Mr. Chairman, and I'm standing up as Chairman of the Banking, Commerce and Insurance Committee, which heard this bill on January 31. This bill was brought to Senator Walz by the Real Estate Commission trying to solve a couple of really interesting issues that they believe that they have. The one that Senator Erdman was talking about was the fact that right now, under the law, there's language that they can weigh all this previous experience and try to waive things. They wanted to make that cleaner by simply having the two-year requirement. I think that clearly makes sense and it made sense to the Banking Committee. The other one is the one that Senator Clements and others were talking about. We have a situation that's changed in the marketplace over time. We have a number of people now that are just cash buyers and they're just flipping homes, they're offering cash to buy the thing and they are then selling those an interest in that contract itself, not selling the real estate. And Mr. Lemon from the Real Estate Commission wanted to clarify when a realtor needed to be involved, when a broker needed to be involved, and that's what this legislation is attempting to do. Again, the committee heard the hearing. Wish all of you could have been there, but we heard the hearing and the bill was voted out 8-0. Thank you, Mr. President.

FOLEY: Thank you, Senator Williams. Any further discussion? I see none. Senator Walz, you're recognized to close. She waives closing. The question before the body is the advance of LB892 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

CLERK: 38 ayes, 4 nays on the advancement of the bill.

FOLEY: LB892 advances. Final consent calendar bill, please.

CLERK: LB708. It's a bill by Senator Hughes. It relates to the law. It eliminates a copyright requirement. Introduced on January 5, referred to the Executive Board for public hearing, advanced to General File. I have no amendments to the bill, Mr. President.

FOLEY: Thank you. Senator Hughes, you're recognized to open on LB708.

HUGHES: Thank you, Mr. President. Good morning, colleagues. LB708 was brought to me by Revisor of Statutes, Marcia McClurg. The bill strikes a provision in section 49-707 that requires the Revis-- the Revisor to

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copyright the supplements and reissue volumes of Nebraska statutes. Last year, the U.S. Copyright Office notified our Revisor's Office that the Legislature could not register a copyright claim for the 2019 General Index. The denial followed a 2020 United States Supreme Court decision, which found that federal, state, and local statutes and court decisions are in the public domain and are, are ineligible for copyright, a concept known as Government Edicts Doctrine. The court held that under the Government Edicts Doctrine, officials empowered to speak with the source-- with the force of law cannot be authors of and therefore cannot copyright the works they create in the course of their official duties. The Supreme Court's holding applies to judges and legislators and any commissions deriving their-- deriving power therefrom, regardless of whether the work carries the force of law. Although the statutes themselves are never eligible for copyright, the Revisor had registered the supplements and reissues of-- for copyright protection as required by Nebraska statute. Until recent interpretations of the Supreme Court's decision by the U.S. Copyright Office, which indicated that such source notes, catchlines, analysis, index, and finally annotations are also not subject to registration with the Copyright Office. I believe it is appropriate to repeal this statutory requirement since the Revisor can no longer comply with it. There were no opponents at the hearing and I'd be happy to try and answer any questions. I would appreciate your green vote in advancing LB708 to General File. Thank you, Mr. President.

FOLEY: Thank you, Senator Hughes. Is there any discussion on the bill? I see none. Senator Hughes waives closing. The question before the body is the advance of LB708 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

CLERK: 43 ayes, 0 nays on the advancement of the bill.

FOLEY: LB708 advances. Proceeding on the agenda, General File 2022 senator priority bill. Mr. Clerk. Let's take some items for the record first, please.

CLERK: Thank you, Mr. President. Urban Affairs Committee reports LB695 to General File with amendments attached. Senator Linehan, amendments to LB939 to be printed, and Senator Matt Williams has selected LB1069 as his personal priority bill for this session. That's all that I have.

FOLEY: Now proceeding on the agenda, General File 2022 senator priority bill. Mr. Clerk.

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CLERK: Mr. President, LB986. The bill has been discussed. Originally introduced by Senator Briese, it relates to-- adopts the School District Property Tax Limitation Act. It's been discussed on February 1, 2, and 3. When the Legislature left the issue last, pending was the committee amendments, as offered by the Revenue Committee, an amendment to those amendments by Senator Matt Hansen, and Senator Hunt had offered a priority motion, which was to refer the bill back to the Revenue Committee. That is the motion pending, Mr. President.

FOLEY: Thank you, Mr. Clerk. Senators Briese, Linehan, Matt Hansen, and Senator Hunt, why don't you take a minute or so each to refresh us on where we left off then we'll go to the speaking queue. Senator Briese, you're recognized.

BRIESE: Thank you, Mr. President, and good morning, colleagues. LB986, as amended by AM1702, would generally limit school property, property tax asking increases to the higher of 2.5 percent or inflation. It would allow for a school board to bypass this when necessary by a 75 percent vote. I believe it accommodates the concerns of education. It's a very small step we can take in the name of property tax relief. It's a reasonable step and it can be an important cog in our efforts to reform education funding. Various concerns have been leveled relative to the bill, especially from education lobby, and I think the mantra there has been just say no. Just say no worked as an anti-drug slogan, but it doesn't work the best down here. Our failure to enact some sort of a reasonable cap, or limitation in this instance, really tees it up pretty nicely for the folks that-- folks out there that would like to put a cap proposal on the ballot. And so I would urge everyone to take a hard look at what we're doing in here and in the spirit of cooperation, I would urge the opponents to reach out with any suggestions that they may have on how they would like to improve this bill. I'm willing to make some changes, some concessions to move this to Select File and it's something that we could address on Select File. But with that said, again, I would urge your consideration and reach out with thoughts or concerns. Thank you, Mr. President.

FOLEY: Thank you, Senator Briese. Senator Linehan, if you'd like a minute or two to refresh us on the committee amendment, you're welcome to do so.

LINEHAN: Thank you, Senator Briese. Excuse me. Good morning, Mr. President. The committee AM1702 is a white-copy amendment, which we've all been through this, so I would just like to echo what Senator Briese said. We are-- he is, I am more than willing to work on the numbers here. We had the opportunity on Thursday in the Revenue

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Committee. We had the EPIC tax in front of us and we had multiple testifiers. And I have decided over the weekend that one of the problems we have on the floor is we're all on different committees and we hear from the interest groups that come to our committees to testify. So the Revenue Committee, more than anybody else, I believe, and someone can correct me if I'm wrong, spends a lot of time hearing from Nebraskans who are very, very concerned about taxes and specifically about property taxes. I think on Thursday we got out of here about 6:00. There were other bills so it wasn't all EPIC tax and property taxes from 1:30 to 6 p.m., but it was the vast majority of it. And this somehow has gotten hijacked into somehow we're trying to harm schools or we don't believe in public schools and that's, that's not it at all. What we're trying to do here is to find some way that we can help everyone, make sure the schools have secure funding, have enough funding, but also make sure that we're not driving people out of their homes or off their farms, which we clearly are. And if you were on the Revenue Committee and you heard these testifiers, you would know it. So I'm going to take my five minutes here and I'm going to-- this is public testimony that we got last Thursday: My husband is still working. However, we've been discussing a move upon retirement, retirement to find a state with more equitable tax laws. Here in Nebraska, we carry an unusually high rate of tax--

FOLEY: Senator, Senator Linehan, you had two minutes just to give us a brief--

LINEHAN: Oh.

FOLEY: --overview of the amendment, so thank you for doing so.

LINEHAN: You're welcome.

FOLEY: Senator Matt Hansen, a couple of minutes.

M. HANSEN: Thank you, Mr. President. So my AM1716 strikes Section 3 of the bill. That's most of the operative provisions of the bill or of the Revenue Committee amendment. I don't pretend to think that that is a friendly amendment. It's certainly not meant to be friendly. And while I have just another minute here, I want to address this kind of issue of compromise. I am willing to do a lot of things to improve the state, but if your lying in the sand is something that is flat-out bad policy, I don't know why the burden is on me to then try and enable that and go forward. I do not think these caps are appropriate and I don't think there's any number that I could support that would be meaningful to the proponents of this bill and vice versa. And I think

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it's inherently tied with schools and how we operate schools because this is effectively a budgetary cap on schools that's done through their property tax asking. It's getting to how we run our schools, not necessarily what rate and what levy we do of taxes. So if we want to move forward, if we want to talk about compromise, colleagues, compromise has to come in both directions. And there's probably some other revenue things that maybe could win some votes if they could get some actual fair discussion on the floor. With that, I'll talk more on my time. Thank you, Mr. President.

FOLEY: Thank you, Senator Hansen, and Senator Hunt, a couple of minutes on your recommit motion.

HUNT: Thank you, Mr. Lieutenant Governor. I, from the beginning and through all the negotiation and amendments and the ways we've discussed this basic policy idea over the past couple of years, have been against the principles in LB986. I think it put schools in a bind. It gets rid of local control that is so important for these communities that really know best how to manage their own schools and their own budgets. And I also have fundamental problems with the language in the bill, like talking about a legal voter. Like, we don't have to put legal voter in statute. That's really redundant and weird. And saying that in a special election, they're going to need 60 percent of the vote to, to change anything, I've never heard of an election where you can't win without 60 percent of the vote. That's also really weird and so just technical problems with the bill. But I became activated and filed this motion hoping to basically kill the bill because I became frustrated hearing conversations on the floor about how the plight of property owners and the plight of the wealthier people in our state and how they've been begging us to do something for them. But time and time again in this body, we've been unable to do something to fundamentally help the most disadvantaged and the people who live in poverty, the people in tough socioeconomic conditions in our state even when the bills don't cost anything, for example, bills around Supplemental Nutrition Assistance Program, bills around anti-discrimination and equity. And the people who are standing up in support of LB986 saying, why don't you think about, you know, the poor suffering people, it always is their poor suffering people, not the bigger picture of the broad population of Nebraska. So that's what caused me to, to get up and file the motion and I would encourage your support. Thank you, Mr. Lieutenant Governor.

FOLEY: Thank you, Senator Hunt. Moving now to the speaking queue. Senator Machaela Cavanaugh, you're recognized.

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M. CAVANAUGH: Thank you, Mr. Lieutenant Governor. Good morning, colleagues. I continue to be in opposition to this bill and I echo the sentiments that Senator Matt Hansen made in his refreshing on this. I'm going to take issue with Senator Briese and Senator Linehan this morning. There's an article in the Omaha World-Herald where they both are quoted talking about how they know that this isn't going to work the way that it's intended and that they challenge us to propose something better. I proposed things. I proposed things last week and we had four days and I didn't hear from either one of you. Four days off and I didn't hear from either one of you and you know I oppose it and you know that I have offered other things. But here you are in black and white, telling the World-Herald that nobody's willing to work with you, but from my perspective, you're not willing to work with me. When somebody opposes my bill and they stand on the floor and they spend hours talking about what they don't like about it, I go and figure out how to make it better. I'm very tired of this double standard. If you want a compromise, then work on a compromise, but don't chastise me on the floor of the Legislature saying I'm unwilling to compromise. And if I oppose something, then I oppose it, but I am always willing to listen. I'm always willing to talk. I've always been willing to listen, to talk to both of you, but I am tired of being told on the microphone over and over again, and now in black and white, that I'm not willing to work with you. You both know that that is not true. That is patently false. I will have a conversation with you. I will try to find some middle ground if it's possible and I am not told by any lobbyist what to do. The schools don't like it and I like the schools, but that's not why I'm opposing this. I'm opposing this because I think it is bad policy and I don't think that it is the way to achieve true property tax relief and school funding. That is why I oppose it, not because somebody told me to. And I'm pretty sure every single person in this room and in that Rotunda can agree that it is very hard to tell me to do something. I'm a Capricorn. I'm pretty stubborn. Not to give Capricorns a bad rap. There's a lot of great Capricorns that probably are more flexible than I am. I'm not married to any of the numbers we have in here, but it's been a practice of the opponents to say no. Where is your compromise? Where is your conversation? Did you talk to somebody other than me that's been opposing it? Four days. Four days. I know you know how to reach me. I'm going to continue opposing it. I'm just disappointed when I read things like this that are clearly not who I am and I know you both know that and I'm, I'm actually hurt. I'm hurt to read this because it says to the people at home that there's nobody in here, that you shouldn't have any faith in any of us to ever work on any problem and that's not true. The people of Nebraska should have faith in us to

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work on problems. And when you come to me with something that I don't fundamentally oppose, I'm certain that we will come to a compromise, but I oppose putting spending caps on local taxing authorities. I oppose that because it goes to a vote of the people. And if the people want to increase spending in their areas, they should be allowed to do that. And it's also really generous to say that there's a united front against--

FOLEY: One minute.

M. CAVANAUGH: --this bill. I'm pretty sure that there's not a united front against anything or for anything in this Legislature, so thank you, Mr. Lieutenant Governor.

FOLEY: Thank you, Senator Cavanaugh. Senator Matt Hansen.

M. HANSEN: Thank you, Mr. President, and good morning again, colleagues. I did want to rise and continue my discussion of this bill and I wanted to allude to the article that I certainly read-- I know a number of us did-- that Senator Cavanaugh just referenced. Colleagues, there appears to be an article in the World-Herald that it-- where the sponsor and lead supporters of this bill acknowledged that it's fundamentally broken and kind of acknowledged that our criticism of this bill this past week or so is accurate. Colleagues, had we not put up the fight, had we not done what we done, this bill could have potentially sailed through and bad policy or not, broken numbers or not, it would have been enacted into law. It took multiple, multiple, multiple days of raising these issues repeatedly to get an acknowledgment that the math didn't work the way the math was purported to work. And this is things that have been in black and white in the bill from the day it's been first debated. Colleagues, when you're telling me that you know the bill doesn't work the way you want it to, but you still really want it, I'm not necessarily sure-- like, like when I'm negotiating, am I negotiating on the side of, like, correct math? Like, what part of this negotiation am I supposed to be taking? Like, where, where, where is my negotiation supposed to be coming forward? At a certain point, if the proposal itself is not in good shape, if it's not good policy, there's a little bit of like I'm allowed to just say no. Like, if the numbers don't make sense, the numbers don't make sense and I don't have to go brainstorm and work new numbers to accomplish the thing that you say is your number one issue. Like, I'm willing to hear other things. Like I said, I don't necessarily support caps on schools. If there were some sort of compromise and things that I wanted got incorporated, sure. Like, I can maybe agree on a number, but I'm going to venture a guess that the

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number that I would want, my basically floor is going to be higher than your ceiling. And that's the thing is I keep talking about this over and over and over again, is there's one side kind of negotiating with itself, one position kind of negotiating with itself that we have to get these caps done so we can change TEEOSA. I'm not in a rush to change TEEOSA, especially if it's conditioned on these caps. So when you say if this bill fails, we're not going to change TEEOSA this, this year or we're going to do something else, that's not much of a threat to me because that's-- you're, you're threatening me with also something that I'm pretty skeptical of, that there's, there's not-- like, there's not the, the, the backup there. So colleagues, if you want comprehensive changes to school funding, if you want comprehensive changes to school policy, if you want comprehensive changes to school taxes, like, propose it. And we're free to critique it and you've got multiple priorities, I'm sure, are looming out there and we'll do another one as well. But when there's a fundamentally broken bill, as we've kind of acknowledged, that in my mind is also just fundamentally bad education policy, I don't know why there's a burden or a thought or a notion that I have to come to the table to fix things that have been apparently broken since day one, that don't accomplish what they want to do, and as I've been saying, are harsher, harsher on the larger, growing school districts than they are in other ones. As I've said before-- I'll say it many times, I'm sure I'll say it many times again-- you know, if you don't want my vote as a Lincoln senator who represents Lincoln Public Schools' family, that's fine, but don't do a bill that brings down the hammer, that cuts Lincoln Public Schools' ability, authority, flexibility, whatever. Don't do that to my school district and then act surprised that I don't want to, say, cut their spending authority and potentially give away their state aid because that is not something I can talk to my constituents with in a straight face.

FOLEY: One minute.

M. HANSEN: Thank you, Mr. President. Colleagues, this has been clear that this bill is important. I grant that it's important. I grant that people care about it deeply. But it is, as we've talked about it last year, as we've talked about this idea over and over again, it is, for me at least, pretty close to a nonstarter because I think it is a really strict and severe restriction to a largely inflated or, or-- problem in terms of the out-of-control school spending. If we want to address property taxes, property tax credit relief fund actually changing some levies or something, OK, we could talk about this. But when you're saying, hey, we're going to mess in with school budget authority as kind of a back-end way to then leverage dollars later in

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the future to solve property taxes, that's where you start losing me on that, whether or not it's even good policy in the first place. Thank you, Mr. President.

FOLEY: Thank you, Senator Hansen. Senator Groene.

GROENE: I still stand in support of LB986 and its, its actual mission and what it's-- the issue it's trying to address. I don't know if it's the right vehicle. I know a simpler way to do it would be just say after the TEEOSA formula is figured that they can't-- and their local effort is figured, they can't collect more than 2.5 percent more than what the state of Nebraska told them the money they needed to fund their, fund their school, but that would be simple. We continue to, in this body for as long as I've been here, to kind of mess around the edges of a huge problem on property taxes and it's-- we all, I think, understand that the huge increases that came through funding our schools because of how our funding formula is where local resources come in first and state aid second. I-- you know, I haven't seen a good policy here yet in seven years, except for Senator Briesse's bill last year that lowered the valuation for ag land in bond elections. That addressed the true problem. The rest of it has been tax, tax shifts where we-- a tax-- that's what a tax credit is. It's a tax shift. We give a credit on property taxes against overpayment of income taxes. So anyway, but it, it is a placeholder for funds that maybe this body in the future can use to actually do good policy on how we fund our schools. The property tax issue is, according that story in the World-Herald, is not dead. I still have LB1207 in Revenue Committee. It address it. It's good policy. It's a compromise between LB1106 of a year ago and it's a heck of a lot better than LB890 because it does not address or change anything in the needs side of the formula. All it does is address the rural property tax problem and the property tax problem in the residential areas by lowering the valuations. Everything else stays the same and creates, creates a guaranteed state funding, call it foundation aid. I know that's a bad word to some folks, but it creates foundation aid based on revenues of the state and also addresses what Senator Friesen and I have always butted heads over: how does that foundation get, get calculated? Nobody gets less than 15 percent of their basic funding. Everybody else gets a share of 15 percent of the total gross state revenues. It works. It's good policy. Simplified it enough that I even think-- won't mention names, but everybody could understand it because I've always been told my, my good policy bills have been too complicated to understand. Anyway, it's a good bill. I hope it comes out of committee. It's a, it's a true answer. It doesn't take money away from the schools. It does come up against a rock and a hard place. The rock

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and a hard place is we need to give more state funding to schools and some folks don't want to do that to rural schools and the hard place is the schools scream that they need more state funding, but they don't want to give up their property taxing authority. They want the best of both worlds with LB890, which we'll hear later, does. Pleases everybody except the property taxpayer. Anyway, LB1207, take a look at it. It does answer and gives hard numbers and addresses the funding side of the formula, gives true property tax relief, gives true state aid to all schools and all children whose parents also pay income and sales taxes. So I will support LB986, but Senator Briese said he's looking at answers. Strike the white copy. Strike the original language.

FOLEY: One minute.

GROENE: Say that after the state aid is, is increased, is figured, a local effort, limit them to 2.5 percent growth on that when they tax on the new valuations on August 20. That is the true answer to holding down surprise tax increases to local taxpayers. But anyway, we'll see where LB1207 goes. I think that good people on-- knowledgeable people on the Revenue Committee-- when we have the hearing, I'll repeat this opening, Senator Linehan. But anyway, we will see where it goes. Thank you.

FOLEY: Thank you, Senator Groene. Senator Briese.

BRIESE: Thank you, Mr. President. I don't want to shift away the consumption tax, but I am for a second here. I really want to thank Senator Erdman for his reintroduction of his EPIC consumption tax proposal. It really afforded us in the Revenue Committee a chance to hear that proposal and it's, and it's really unfortunate that this entire body wasn't there to hear the testimony. Why do I say that? Because the testimony we heard last week on Senator Erdman's consumption tax proposal really served to me to reinforce the need for steps to reduce the property tax burden on Nebraskans. It was a reminder of the angst and the anger felt by many, felt by many Nebraskans over their property tax burden. So who did we hear from? I don't have an exhaustive list here. I think some others might speak to this, but we heard from a farmer from Kearney who said his family farm is being taxed into oblivion. We heard from another testifier talking about the loss of their family farm. We heard from a landlord who pays over a third of his farm rental income in property taxes, a third of it. His rental income, what he's worked for all his life to be able to retire and rent his farm out, he pays a third of that rental income in property taxes. And so what about insurance and family living expenses

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on down the line? What's he living on? Not sure. Another testifier who's thinking about moving to a more tax-friendly state. A rancher complaining of the loss of hundreds of cattle producers, with folks leaving the state because of our unreasonable, unsustainable overreliance on property taxes to fund local government. Another testifier told how she had to borrow every year, borrow every year to pay her property taxes, said she accumulated \$40,000 in credit card debt doing so. She gave the example of a owner of 350 acres and a \$350,000 house in Missouri paying \$7,000 in property taxes and where in Nebraska, somebody that owned 40 acres and an old house were paying more than that. Another noted how people are hurting from their property tax burden. An Omaha business owner noted how property taxes will, in his words, make or break a business. Another testifier noted her property taxes went from \$1,444 in 2015 to \$3,257 today in 2021. Then we heard from a cattleman saying 10 percent of his gross income goes to paying school salaries and he was talking gross income, wasn't talking net income. And any of you that know much about agriculture know that it's a high-capital, low-margin business and 10 percent straight off the top is a huge swath of your profits. Another spoke of his brother-in-law, a rancher paying \$51,000 in property taxes with quote, no money to raise family on, unquote. Another spoke of her property taxes going up by 31 percent in one year. And we could go on here, but I think you really see the point. Somebody here on the floor a little while ago said what we're trying to do by limiting the growth of property tax asking in LB986, I think they said it was not appropriate. Well, I think we heard from a whole lot of testifiers last week on Senator Erdman's proposal who would disagree with that assessment. If everyday Nebraskans were voting on this proposal, they likely, likely would support it. And if we don't do something, I would predict that Nebraskans may get the chance on the ballot someday. And so I would urge your support. I'm going to talk about a little more how this works and my, my thoughts for resolving some of the issues here, maybe when I get some time yielded to me later. Thank you, Mr. President.

FOLEY: Thank you, Senator Briese. Senator Pahls.

PAHLS: Thank you, Mr. President. Well, that goes for-- the EPIC or the consumption tax is going to be on the floor because all the comments that Senator Briese made was from that group that I also listened to and I was impressed with some of the dilemma that they were in. So maybe we've all-- this is a precursor to that bill when it does hit the floor. I thank you for that. I did not vote this out of the committee for one reason: because I did not think the numbers had been vetted. But by listening to the two senators, they're willing to work

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on that. To me, that's a positive move to make sure that we understand. Because I, I'm looking at all these percentages. Who did that? I don't know, is there some magician up here? That's in my mind. Was there some magician giving those out? But I hear that we're willing to work at it and that makes-- that's making me take a different view of this bill. And I do understand when you talk about the people who come in front of our committee, the Revenue Committee, you get worn out because the people come there with an issue. But I also will say many, many years ago when my granddad was a county commissioner, all they talked about was taxes then. Taxes is never going to be a popular item, but I do believe if we're willing to take a look at this and maybe look at some of the issues of the percentages, etcetera, etcetera, I could vote to move this bill forward. The business groups that are-- that have come in front of our committee on this particular bill, I'm just going to read one of the statements that the-- from one of the groups. Placing restrictions on property tax asks by the school districts gets at the core of the problems. School districts must live within their means as small, as small businesses do, especially in this particular time. I heard that time and time again from the Cattlemen, Farm Bureau. The chamber, they did come with some reservations, but they came from-- all the businesses, whether you're agriculture, manufacturing, small business, they are saying, hey, take a look at this. And I'm willing to do that. And I also will say one of the biggest proponents of this was the Lincoln Independent Business Association and the individual said they have over 1,100 members in that. I'm just saying that's, that's from Lincoln. So we have to balance this out about the Lincoln Public Schools and also what the community is saying. To me, I would feel good if we would pass this bill on and between now and Select File, we could get some of those issues, if at all possible, to be settled because it's not going to go away. And I would be disappointed if the-- and I'm-- my past history is education-- that if we would not at least listen and see if we could not come with something that we could live with. Because as the fiscal note says, this is a-- basically, this would be like the third cap on bus-- on school districts. Apparently, the first two are not working and some people believe that we need another cap to sort of balance things out. But as Senator Briese said and Senator Linehan has said, the people who come in front of the Revenue Committee, they're not complimenting us on our taxing-- our tax policies. So as I, as I say, I am moving over, hopefully that we can do something to change the bill to some degree on Select. Thank you.

FOLEY: Thank you, Senator Pahls. Senator Morfeld.

MORFELD: Thank you, Mr. President. Colleagues, I rise in opposition to the legislation and continue to be in opposition and I just want to touch on a few different points, some that were made by my seatmate and colleague, Senator Pahls, and some that we began discussing last week. So first, school districts are living within their means and if they're not living within their means, there's political consequences for it. And those political consequences are that those school board members have to go back to their constituency and run for reelection. And we hear about schools being the problem here and them being the driver of property tax increases and yet when you look at school board races across the state, overwhelmingly these school districts that are supposedly the problem, these school board members are being reelected. Senator Pahls brings up my community that I represent, Lincoln, and notes that there's one business entity that happens to be in support of this, but yet overwhelmingly, the school board has been reelected time and time again by record margins on the ballot, sometimes unopposed. So the voters clearly don't agree. The voters clearly think that Lincoln Public Schools is living within its means and are accountable to the people. And I tell you what, when people get upset about something, they don't just sit around and thumb their noses. They get involved. They recruit candidates. They run themselves. So I think Lincoln Public Schools and the Lincoln community is pretty happy with their school board and their school spending. And don't take my word for it, look at the elections; overwhelmingly reelected each and every single time. So I appreciate that there's a business group out there that supports this legislation, but let's look to what the voters are actually voting for and they're overwhelmingly voting back in the people that are managing our school district and in charge of ensuring that we have a high-quality education. As Senator Pahls noted, we already have two limitations. I think some more, actually, than that, but we have at least two limitations on school spending already. I think that's enough. There's a third limitation and again, that's called an election. And if school board members are overspending and abusing their power and not living within their means, the voters will vote them out. That's elections. That's accountability. They don't need people in Lincoln telling them exactly how they should spend their budgets and address the needs of their particular students. And last week, people were asking for examples of districts that were overspending and everybody's like, oh no, we can't say it on the mike, can't say it on the mike. We might hurt someone's feelings. I mean, come on. We're all adults here. If you've got an example of waste, if you've got an example of a district that's living outside its means, that is the exemplar of this legislation, the need for it, then let's

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discuss it. All we got was a handout about a piece of technology that was a public-private partnership between a school district and their healthcare folks that identified a need and the school district made a smart investment in technology so that their kids would be ready for jobs that are actually needed in their community.

FOLEY: One minute.

MORFELD: And that was held up as the example of government waste. That's an example of exactly what we need to be doing. That's an example of a school district being responsive to the needs of their community and to the needs of the private industry and the needs of their constituents. The fact that there has been no clear examples of districts that this is trying to remedy or address other than that just goes to show why this legislation is not needed. There's plenty of other ways that we can provide property tax relief and we do that and I voted for most of them, but this is not the right approach, colleagues. We already have accountability. It is in the hands of those locally elected school board members. Thank you, Mr. President.

FOLEY: Thank you, Senator Morfeld. Senator Bostelman.

BOSTELMAN: Thank you, Mr. President. I am opposed to the recommit motion and to AM1716. I believe there needs more-- to be more work done, potentially with this bill. I think Senator Briese is willing to do that and I would look to see this move from General File to Select. With that, I yield the rest of my time to Senator Briese.

FOLEY: Senator Briese, you've been yielded 4:38.

BRIESE: Thank you, Mr. President, and thank you for that, Senator Bostelman. I appreciate it. And let's be clear here, LB986 would work as intended. It would limit property tax askings to the higher of 2.5 percent or inflation, with some exceptions. A lot of folks are pointing to this article they read this morning in the World-Herald and Journal Star and I think the point of the article is that it would go further than that and that it could serve to limit overall revenue. And really from a close reading of the bill, that, that's obvious. And we talked about it for three days last week, but nobody last week, that I recall, suggested any changes. And so I'm asking, how do you want change it? The issue brought up in the article, you know, that's easily addressed. You know, we can tweak the number higher. You can say instead of 2.5 percent, you can drive that up a little ways and that tends to solve that issue or we can take out the clause that causes the cap to increase or decrease with fluctuations in state

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revenue and that would make it similar to an LB408 type situation. And that's not really what we want to do here because I think that provision allowing the cap to increase or decrease, excuse me, decrease with fluctuations in state revenue really is an important piece of this. It's both to protect schools and help them do their job and it's also to protect taxpayers in the event of an influx of other revenue. Perhaps the best approach would be to make the 2.5 percent cap a limit on total state and local revenue. And in that way, it would still be a de facto tax asking cap and tax asking authority would continue to float with changes in state aid, but it would eliminate the disparity in treatment between some of the equalized schools and the unequalized schools. And that really could be done with the stroke of a pen or stroke of a keyboard and, and I'm willing to do this with an amendment on Select File and I realize that without an amendment like that-- maybe, maybe we need something else too-- the bill likely dies. And so if you want to be part of the solution, let's move this to Select with the understanding that I'll make it a state and local revenue cap of 2.5 percent. And if we don't get to agreement there, it will die on Select File, but I would do my best to accommodate many of these concerns that seem to have been raised. And if you have other concerns, other thing-- anything else you want to see in there, let me know and we can talk about it. And with that, I would urge your opposition to the motion to recommit and Senator Hansen's amendment and urge your adoption of AM1702 and LB986. Thank you, Mr. President.

FOLEY: Thank you, Senator Briese. Senator Slama.

SLAMA: Thank you, Mr. President, and good morning, colleagues. I rise today in support of LB986, which I've consistently supported since my time in the Legislature, and thank Senator Briese for his work on this issue. I'm going to yield my time to Senator Linehan here in a minute, but I just wanted to call something out real quick. Some of the senators in this body rose today to complain about an article that they read in the paper. Really? Senators Briese and Linehan are statesmen and stateswomen who didn't personally attack anyone. So I guess if the shoe fits as someone who's unwilling to budge on an issue-- like just own it-- they just pointed out a simple truth; that structural reforms that would benefit taxpayers, schools, and students in this state are consistently blocked by the same people year in and year out and the only solutions provided are completely untenable and completely unsustainable. And then we just stick our heads in the sand and go, well, they wouldn't compromise. Well, we wouldn't compromise with your poison pill amendment and your poison pill negotiations. If you're going to call out my colleagues, Senators Briese and Linehan,

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and personally attack them on the mike with unfounded complaints so unprofessionally, like, don't be surprised when they don't light up your phone over the weekend to have a casual chat with you to see what you're willing to negotiate towards. And with that, I'd like to yield my time to my colleague, Senator Linehan.

FOLEY: Thank you, Senator Slama. Senator Linehan, 3:20.

LINEHAN: I don't even know where to start, but I'm going to start by addressing Senator Morfeld's comments just a few minutes ago. The, the article that I handed out last week, I'm just going to-- you don't have to guess what it says. I gave it to all of you. So on page 4 or 5, they said they came across this table approximately four years ago at a national conference and it's been in the back of his mind ever since. I-- this is a direct quote from the people who purchased the table-- I didn't feel like I could ever come to the taxpayers and ask them to pay that kind of money for a table, even though I thought it was great. I'd been hoping that a grant opportunity would present itself at some point and then viola [SIC], here comes COVID money so we could buy it. And then a board member proposed the idea of using the table for the biology class, but the biology teacher said he wouldn't have much use for it. And the reporter rightfully asked, well, if you don't spend it on this table, what will you spend it on? Well, we'd probably spend it on summer school. Yes, summer school. That's what the first tranche of COVID money was supposed to go to. We have a crisis. I'm going to move away from our property tax crisis. We have three years now. When kids have been in and out of school, they've been on remote learning. And I will say-- and I am very proud-- Nebraska public schools, private schools have done much better than the rest of the country when it comes to keeping kids in school. But we all got sent home in March two years ago. Little kids got sent home, lost three months, then the next year was intermittent. This year has been intermittent. So if we have money, COVID money, extra money, it should be going to summer school.

FOLEY: One minute.

LINEHAN: It should be focused-- one minute or done-- it should be focused on kids who are struggling not even to catch up, just to get to where they should be. Just quickly, I handed out-- this came up Thursday in our hearing-- a picture of three homes. They're in the Mary Queen-- Mary Our Queen Parish in Omaha. These homes were built in the '50s and '60s by families like my parents, many of our parents, grandparents' generation. Their tax property per-- their tax payment per month now-- well, they don't even do it per month because their

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houses are paid for-- so their property taxes, if you broke it down on a 12-month payment, is now more than their mortgage, their property taxes, and their insurance were when they bought these homes. You're literally facing-- chasing people in their 60s and their 70s and their 80s who built these homes out of their homes.

FOLEY: That's time. Thank you, Senator Linehan. Mr. Clerk.

CLERK: Mr. President, a priority motion. Senator Matt Hansen would move to bracket the bill until April 20, 2022.

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

M. HANSEN: Thank you, Mr. President, and good morning again, colleagues. I'm glad we had an opportunity for Senator Briese and Senator Linehan to address this bill and address some of the issues they wanted to talk about before I put up this bracket motion. What I wanted to talk about, though, is kind of holistically this debate and what we're looking at because there's been lots of-- obviously, this is getting personal. There's been some flings and some arrows already. And I want to point out that some of the things that are going on are kind of systemic of the problems that routinely are happening when we talk these revenue bills and specifically when we talk on these same issues over and over and over again. Colleagues, we are approaching a cloture motion. I think we're within 10, 15, 20 minutes. So for Senator Briese to just get up in the last ten minutes and propose a-- some sort of amendment that's not written, not discussed is literally the 11th hour. It's 11 a.m. It was about 11:11 with 20 minutes left to debate, hey, if you give us a chance to rewrite the bill completely, we'll try, after we have had over seven and a half hours of debate on this bill, spanning most of a week. Colleagues, why is the burden on us as opponents when there is a bill that is fundamentally bad policy to try and fix the bill on their behalf and then to have, at the last second, some sort of technical correction basically be pitched as some sort of compromise solution that we can move it forward? That is what we are dealing with and that is what we're dealing with here. And additionally, it's come up a couple of times again. Myself, others have challenged people accusing schools of runaway spending to come up with examples. And colleagues, literally the one concrete example we've got is that table in David City. It's literally one one-time expense in one school district. Like, like, even if you agree-- I don't know enough about the table to have an opinion of it, but, like, we're talking about a single piece of technology that got bought with one-time funds once in one school district. I cannot overemphasize how, in the scheme of all of our hundreds of school districts, how

small of a drop of anything that is. That is-- if that's the example that we're holding up, there should be a flurry of other examples to use, but instead, it's this one example over and over again and kind of some hand-waving again at Lincoln for being expensive over time. Colleagues, we have time and time again kind of challenged some of the base assumptions and base statements supporters of this bill have gotten and all we have gotten back as opponents are the same pieces over and over again. Talking about that article, colleagues, like, I had been challenged on this microphone that my math was incorrect or I wasn't interpreting the bill right or I was overblowing things. And then to have it in an article basically conceding to the points on my-- I had been trying to make-- I had been trying to work out math on the microphone-- were in fact correct this whole time was a bit jarring to me personally. It is difficult to see and difficult to know where do we go from that? And where do we go from that, when in my mind, again, there's these calls for compromise and there's these calls to move forward. But again, the goal to compromise is to compromise on an issue I'm fundamentally opposed of to get to another issue on TEEOSA that I'm genuinely worried about the outcome. If we want to tie all of these bills together, if we want a tie them together with different ballot initiatives, we want a tie them together with the consumption tax, let's talk about them and let's talk about how they're all going to fit together. But I know and we all know that had there not been this opposition, had me and a number of my colleagues not stood up repeatedly for this past week, this bill would have flown through kind of difficult math and all. These limitations would have hit school districts and flown through and they probably would not have been caught had we not taken the time to talk about this bill and to draw it out and to emphasize. Colleagues, again, over and over, we are challenging the notion of why is school district spending a problem? People aren't challenging the notion of property taxes being a difficult tax or difficult to pay. We're challenging the notion that our school district spending is out of control. Ultimately, this is, again, over and over again, an educational policy bill that's being gotten to via tax limitations and tax limit authority. This isn't lowering school district levies. This isn't changing tax levels. This isn't refunding the credit. This is a percent calculation on essentially school district budgets year over year in a way that is going to hurt Lincoln Public Schools-- and I'm comfortable saying hurt-- in a way that is going to hurt Lincoln Public Schools. In addition to hurting Lincoln Public Schools, hold them out different than other school districts, different than most school districts because they have the strictest limitations in, in the bill. And in addition, as it's come up over and over again, there

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are some pretty strict requirements, including having a supermajority of voters having to approve some of these issues, not even just a simple majority. So it doesn't even necessarily conform to our regular direct democracy tenets that we hold up in our Nebraska Constitution. Colleagues, all of these pieces in this bill, all of these issues are problematic, from the policy side to the implementation side to just agreeing that the math works out the same way, but I think we have some disagreement. Colleagues, all of these issues are problematic in LB986. If we'd like to move forward, we can move forward, but we're going to have to start talking about bills comprehensively, including that we know bills like this are just opening the door to mess with TEEOSA in some way, but we don't know what that way is. And again, I want to re-emphasize this point that I feel like that's the same side negotiating with itself, saying I represent a high ag land, low-levy district that doesn't get equalization aid and I want to both get more equalization aid and I also want to change how school districts tax authorities in ways that probably both are either going to, at best, hold Lincoln Public Schools neutral and at worst, hurt them. I don't know where I-- again, as a senator who represents Lincoln Public Schools' families, as a senator who represents Lincoln, am supposed to fit in that negotiation. Am I supposed to just let it happen around me? Am I supposed to not raise my objections? Like, what role am I supposed to play there and what role am I supposed to have in that discussion? Colleagues, this is where we're at today. This is where we've been at. This is where we're going to continue to be as long as we keep having tax bills, spending bills, education bills, whatever they are that are going to harm the quality of education for my constituents because that is a line in the sand that I'm not willing to compromise on. Numbers are numbers. Budgets are budgets. Taxes are taxes. Sure, we can figure all that out. But if your insistence is upon a bill that I fundamentally believe will harm the quality of education for my students in my community, I don't know why I am expected to negotiate and compromise that, especially when my negotiations and compromise are starting at the thing of just good tax policy or just good public policy. Like, I'm not necessarily getting what I want. I'm just trying to make the bill function correctly a lot of the time. That is the difficult position we are put in and that is a difficult position we are. Colleagues, I know there's been some appeals. There's been some pleas to get this to move forward. We know time and time again that if you get a bill to Select with some promised amendments, how quickly that can fall apart, how quickly a vote can get changed, how quickly some of this can come and change and move forward. If you've been in opposition to LB986 this whole time, having a technical or minor change to fix a problem that's been in the

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bill the whole time shouldn't be the thing that flips you from no to yes. It should be a reconfirming that this bill has fundamental problems, fundamental issues baked in, and needs to be solved and preferably in my mind, just put away from the year. And if supporters like Senator Briese and Senator Linehan like this issue, they can bring it back in another form or another way with the mechanism that works correctly as they want it to work and as they're willing to stand up and explain on the floor. So with that, Mr. President, thank you.

FOLEY: Thank you, Senator Hansen. Senator Linehan.

LINEHAN: Thank you, Mr. President. I'm just going to use a few minutes we have here before cloture to talk to the people at home. The same people who have stood up against this bill have been against any school funding reform we have ever tried to do the whole time I have been here, whether it be trying to slow down the increases in spending-- and nobody has ever, since I've been here, ever introduced a bill to cut funding for schools. It's always just can we slow down the growth a little bit? Can we slow down the growth of property taxes? Same filibuster, same people. It doesn't matter what we bring because the truth is-- I've really come to believe this-- the big schools, they like it just the way it is. They get all the property tax money. They can get it at \$1.05. Their valuations go up. I think Lincoln last year, 12 percent, they took it all. The little schools are too big. They don't have enough senators. They can't fight it. So the big schools, Lincoln being one of them, they take all the property taxes. How-- no matter how much the valuations go up, they get the vast majority-- Omaha, Millard, and Lincoln-- the vast majority of the TEEOSA funding and it's fine. They like it. I'd yield the rest of my time to Senator Briese.

FOLEY: Senator Briese, 3:40.

BRIESE: Thank you, Mr. President, and thank you, Senator Linehan. You know, I said it the first day and I'll say it again, nobody here wants to choke off education, but we knew-- we do need to do this. And why do we need to do this? To ensure property tax increases climb at a reasonable, sustainable level, level. Number two, we have to ensure that we have a mechanism in place to ensure that an injection of additional state dollars into public education will yield property tax relief while still allowing for growth and still allowing for local control. As I indicated earlier, on Select File, I will make it a limit on total state and local revenue to eliminate the concern that was brought up this morning by various speakers. I think what we're

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proposing here is a good resolution of this and I would ask for your support on the cloture vote. Thank you, Mr. President.

FOLEY: Thank you, Senator Briese. Mr. Clerk, you have a motion at the desk.

CLERK: I do, Mr. President. Senator Briese would move to invoke cloture pursuant to Rule 7, Section 10.

FOLEY: It's the ruling of the Chair that there has been a full and fair debate accorded-- afforded to LB986. Senate Briese, for what purpose do you rise?

BRIESE: I would request a call of the house.

FOLEY: There's been a request to place the house under call. All those in favor of calling the house vote aye; those opposed vote nay. Record, please.

CLERK: 27 ayes, 1 nay to place the house under call.

FOLEY: The house is under call. All members, please return to the Chamber and check in. The house is under call. A roll call vote in reverse order has been requested when we get to that point. Senators Wayne, Murman, and Lindstrom, please return to the Chamber and check in. Senators Wayne and Murman, please return. All unexcused members are now present. The immediate vote is whether or not to invoke cloture. A roll call vote in reverse order has been requested. Mr. Clerk.

CLERK: Senator Wishart voting no. Senator Williams voting no. Senator Wayne voting yes. Senator Walz voting no. Senator Vargas voting no. Senator Stinner voting no. Senator Slama voting yes. Senator Sanders voting yes. Senator Pansing Brooks voting no. Senator Pahls voting yes. Senator Murman voting yes. Senator Moser voting yes. Senator Morfeld voting no. Senator McKinney voting no. Senator McDonnell voting yes. Senator McCollister voting no. Senator Lowe voting yes. Senator Linehan voting yes. Senator Lindstrom voting yes. Senator Lathrop voting no. Senator Kolterman voting no. Senator Hunt voting no. Senator Hughes voting yes. Senator Hilkemann voting no. Senator Hilgers voting yes. Senator Matt Hansen voting no. Senator Ben Hansen voting yes. Senator Halloran voting yes. Senator Groene voting yes. Senator Gragert voting yes. Senator Geist voting yes. Senator Friesen voting yes. Senator Flood voting yes. Senator Erdman voting yes. Senator Dorn voting no. Senator DeBoer voting no. Senator Day voting no. Senator Clements voting yes. Senator Machaela Cavanaugh voting no.

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Senator John Cavanaugh voting no. Senator Briese voting yes. Senator Brewer voting yes. Senator Brandt voting yes. Senator Bostelman voting yes. Senator Bostar voting yes. Senator Blood voting no. Senator Arch voting yes. Senator Albrecht voting yes. Senator Aguilar voting no. 28 ayes, 21 nays on the motion to invoke cloture.

FOLEY: The motion is not successful. I raise the call. Before proceeding to the next bill, Mr. Clerk, do you have any items?

CLERK: Mr. President, I'm fine, but thank you for asking.

FOLEY: Very good. We'll proceed to the next bill when you're ready. Mr. Clerk.

CLERK: Mr. President, next bill is LB906. It's a bill by Senator Ben Hansen. It's a bill for an act relating to public health. It requires employers to provide for a vaccine exemption. Introduced on January 7, referred to the Health and Human Services Committee. The bill was advanced to General File. There are committee amendments pending.

FOLEY: Thank you, Mr. Clerk. Senator Ben Hansen, you're recognized to open on LB906.

B. HANSEN: Thank you, Mr. Lieutenant Governor. First, I want to start off with explaining the origin and purpose behind LB906, especially in light of Senator Arch explaining the committee amendment soon afterwards and the changes of the bill-- to the bill after working with many involved stakeholders such as the Nebraska Hospital Association, Nebraska Health Care Association, Nebraska Chamber of Commerce, the Department of Health and Human Services, among others. LB906 would impact employees and employers across the state of Nebraska. In essence, an employee who does not consent to a COVID-19 vaccine requirement from their employer would be able to fill out a religious or medical exemption form from the DHHS website. Upon submitting the exemption form to their employer, the employer must then accept and provide for a COVID-19 vaccine exemption. We have worked very closely with all Medicare and Medicaid organizations to make sure we mirror federal language for religious and medical exemptions. We did not want to risk the compliance with federal guidelines, and I believe we have accomplished just that. Protecting the employee from a mandated medical procedure or losing their livelihood, but also respecting the rights of business owners to provide protection for themselves as well as their establishment. Bodily autonomy is a concept that has been considered in the governing process of our country for the entirety of its existence-- existence.

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It is about the individual right to make decisions for one-- one's own life, health and future. It's about the individual's right to have freedom to live without being forced to receive medical procedures. The federal government has accepted this. The state government has provided for it through various legislation, and now I believe the world of industry and business should also recognize the importance of individual liberty when it comes to the COVID-19 vaccine. Employers are individuals. They write policies and make decisions that would best keep their business working in an environment of their choosing. This includes what steps they take to guide the impression they leave with their customer, what services they will give, the products they sell, and the needs they meet. Also included in each business plan is how the employer works with its employees, what benefits they offer, what safety measures they put in place for an accident-free workplace, etcetera. Recently for some, this includes setting requirements for employees to receive a COVID-19 vaccine. This addition to the employer's scope of interest has been controversial since it not only affects the workplace, but it crosses over into the employee's personal and individual medical and religious lifestyle outside of their job. It is for this reason I believe these employers should provide an avenue that gives the employees an ability for exemption from the COVID-19 vaccine. Why? Because employees are also individuals. They know more than anyone what is best for their life, health, and future. If they have chosen to work for an employer who requires a COVID-19 vaccine, they shouldn't have to face the decision many in Nebraska have been confronted with, this being accept the vaccine or lose their livelihood, career, and ability to provide for their family. If they have a medical reason to refuse the vaccine, they shouldn't have to risk harm to their health. If there's a conflict with the way they choose to follow their god or religion, employees shouldn't have to ignore their conscience. But this is the very predicament many have been faced with. To me, this is anything but the protection of bodily autonomy or the promotion of freedom to choose that comes with individuality our country supports. Employees in Nebraska should be allowed exemptions. This is why LB906 was written. Since the COVID-19 vaccine became available, my office has been flooded with request-- requests from across the state, employees asking for help as the federal government threatened to mandate the vaccine and as employers started reinforcing the same policy, the freedom to choose being at the core of each email, phone call, and meeting. Nebraskans asked me to look at people as individuals who have specific needs and differing ways of life, each one capable of choosing. So I did introduce LB906. I have worked with the Nebraska Chamber to create a bill that respects the employer. The Nebraska

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Hospital Association and the Nebraska Health Care Association supported the changes I made to mirror federal laws and guidelines in order to diminish any confusion there might be. I listened to hundreds, if not thousands, of employees represented throughout the year who asked me for an option for exemption from vaccine requirements. This bill accomplishes all of that. We had to run a very fine line to make this work for all. And I encourage you to support LB906 and the following amendments. Thank you, Mr. Lieutenant Governor.

FOLEY: Thank you, Senator Hansen. Senator Arch, you're recognized to open on the committee amendment.

ARCH: Thank you, Mr. President. Good morning, colleagues. The committee amendment, AM1729, is substantially the same as Senator Ben Hansen's AM1687. But the committee amendment replaces the green copy. It becomes the bill. Page 2, lines 2-26 of AM1729 would require the Department of Health and Human Services to develop a vaccine exemption form for an employee of most businesses to claim a COVID-19 vaccination exemption as it relates to workplace policies. The form will include a declaration by the employee that a healthcare practitioner has provided the employee with a signed, written statement that the vaccine would be medically contraindicated, that a medical necessity requires a delay in vaccination, or that receiving the vaccine would conflict with the individual's sincerely held religious belief, practice, or observance. The original LB906 included only an exemption for a strong philosophical, ethical, or moral belief or conviction, but that portion has been removed by the committee amendment. The exemptions currently in the amendment are exemptions that the federal government recognizes for vaccination exemption. If an employer requires their employees to be vaccinated against COVID-19, they may also require periodic testing or wearing of personal protective equipment at the cost of the employer. Page 1, lines 10-20 of AM1729 would define employer as a person engaged in industry who has one or more employees. This is a change from the original bill, which required 20 or more employees for a majority of the calendar year. Employer would also include any party whose business is financed in whole or in part by the Nebraska Investment Finance Authority Act, including the state of Nebraska, its governmental entities and political subdivisions. Employer as defined does not include the United States of America, an Indian tribe, or a private membership club. Page 1, lines 4-8, one other change from the original bill is that the amendment only applies to COVID-19, some variant or mutation of COVID-19, or conditions arising out of COVID-19, which was not specified in the original bill. LB906, as

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amended by AM729-- AM1729, was advanced out of committee 6 to 0, with one member abstaining. There is no fiscal note. I want to comment as well, take the opportunity to comment on the testimony that we received in committee on this bill. And one of the-- one of the-- several of the testifiers talked about what is happening right now in-- in the employer-employee relationship in particular as it relates to the religious exemption. And I want to read-- I want to read some from the EEOC guidance and this was a document that was published in December of 2021, December 14, 2021, by the EEOC, the U.S. EEOC, What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO guide-- Other EEO Laws and this is guidelines that is published by the EEOC. And here's what it-- here's-- here's a question was asked: Under-- under Title VII civil rights, how should an employer respond to employees who communicate that they are unable to be vaccinated for COVID-19 or provide documentation or other confirmation of vaccination because of a sincerely held religious belief, practice or observance? And here's what they say. "Once an employer is on notice that an employee's sincerely held religious belief, practice or observance prevents the employee from getting a COVID-19 vaccine, the employer must provide a reasonable accommodation unless it would pose an undue hardship." And of course, they define that. Further down they say, "the employer should ordinarily assume that an employee's request for religious accommodation is based on a sincerely held religious belief, practice or observance. However, if an employee requests a religious accommodation, and an employer is aware of facts that provide an objective basis for questioning either the religious nature or the sincerity of a particular belief, practice, or observance, the employer would be justified in requesting additional supporting information...Under Title VII, an employer should thoroughly consider all possible"-- all possible "reasonable accommodations, including"-- including "telework and"-- and remote. One other-- one other quote that I would like to read from that EEOC document says this, quote, Although prior inconsistent conduct is relevant to the question of sincerity, an individual's beliefs -- or degree of adherence -- may change over time and, therefore, an employee's newly adopted or inconsistently observed practices may nevertheless be sincerely held. I read those-- I read those because in the testimony that we heard in committee, there were a number of testifiers that came in and testified to the opposite. What they said was that there was not an assumed-- an assumed recognition of a sincerely held belief, but rather it was the opposite. It was you must defend, you must prove, you must show evidence versus-- versus this reasonable questioning. So I obviously support AM1729. I believe that it needs to be stated in our state statutes that the same requirements

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that the feds and the same exemptions that they, excuse me, the same exemptions that the feds offer for medical and for religious are the same exemptions that we require in statute in the state. So with that, I encourage your green vote on AM1729 and on the underlying LB906. Thank you.

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

CLERK: I do, Mr. President, thank you. Amendments to be printed: Senator John Cavanaugh, LB773; Senator Friesen to LB939. Hearing notice from Natural Resources Committee. New resolution LR-- I'm sorry, hearing notice from Natural-- two hearing notices from Natural Resources. And, Mr. President, Senator Friesen offers LR293. That will be laid over at this time. In addition, the Banking Committee will meet in Executive Session following their hearings this afternoon. Likewise, Urban Affairs Exec Session after their hearings this afternoon. And Senator Halloran would like to have the Agriculture Committee meet in Executive Session at 2:30 in Room 1003. Name adds: Senator Groene, LB713; Clements, LB906; Morfeld, LB1241; DeBoer, LB1246; Morfeld, LB1271. Mr. President, Senator Blood would move to adjourn the body until Wednesday morning at 9:00 a.m.

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