

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 9, 2022

FOLEY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the twenty-second day of the One Hundred Seventh Legislature, Second Session. Our chaplain for today is Pastor Scott Bruick of the St. John's Lutheran Church in Seward, Nebraska, Senator Kolterman's district. He's also friends with Senator Bostelman. Welcome.

PASTOR BRUICK: Good morning. Let us join together in prayer. Gracious God and Father, Lord of all creation, we give you thanks and praise for the night's rest and for the gift of this new day. By your mercy and grace, help each one of us to use the hours of this day and the gifts that you have given to us, to your glory and in service to our neighbor. Bless all who serve in this Chamber and all who assist them. Grant them the wisdom that is needed to serve well all citizens entrusted to their care, from those at the beginning of life to those entering the twilight of their years. Grant them a concern for all that no one has neglected the rights due them or the freedom secured for them. Grant them prudence so they are slow to give judgment while being ready to hear, listen, and learn from one another. Grant them a spirit of unity and order that together, the welfare of the citizens is expedited. And grant them a spirit of forgiveness when in their debating offense is given or is taken. Bless our Governor and his staff with these same gifts: wisdom, concern, prudence, unity and forgiveness. We pray the same for all who serve our nation at the federal level and for all governmental leaders around the world. And then at the close of this day, grant all who serve in the vocations of public office your peace that comes from the Prince of Peace, Jesus Christ, Lord and Savior. In his name, we pray. Amen.

FOLEY: Thank you, Pastor Bruick. Senator Brewer, can I ask you to lead us, please, in the Pledge of Allegiance?

BREWER: 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 Brewer. I call to order the twenty-second day of the 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 to the Journal?

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CLERK: I have no corrections.

FOLEY: Thank you, sir. Any messages, reports, or announcements?

CLERK: Mr. President, priority bill designation: Senator Arch, LB1037. Just two announcements: the Natural Resources Committee will have an Executive Session at 10 o'clock this morning under the south balcony; Natural Resources at 10 o'clock this morning. That's all that I have, Mr. President.

FOLEY: Thank you, Mr. Clerk. Senator Linehan would like to recognize Dr. Brent Holmquist of Elkhorn, Nebraska, serving today as family physician of the day. Dr. Holmquist is with us under the north balcony. Doctor, if you could please rise, we'd like to welcome you to the Nebraska Legislature. Thank you for being here. Moving now to the agenda, General File 2022 senator priority bill. Mr. Clerk.

CLERK: Mr. President, LB906, introduced by Senator Ben Hansen, relates to public health; requires employers to provide for a vaccine exemption. Senator Hansen presented his bill yesterday. Committee amendments, as offered by the Health and Human Services Committee, were pending when we left the bill. At this time, Mr. President, I do have an amendment to the committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Arch, why don't we start with you for an update on the bill.

ARCH: Thank you, Mr. President. Just a refresher as to LB906, as amended by the committee, which is AM1729. This is a, a bill that provides for two exemptions for employees, one for medical and one for religious. Those are currently in statute, or under the direction of the federal government as well, where they are required to provide those. This codifies that into state language. It has other provisions. It is specific to COVID-19, not to other vaccinations, not getting into school immunizations, those types of things. It is a, it's a statement. It's a, it is a clarifying statement to employers that these are exemptions that are allowed and required under federal. So with that, I'll leave it at that. I'll be able to answer any questions that might be posed by other members when the time comes.

FOLEY: Thank you, Senator Arch. We'll move now to the speaking queue. Senator Hunt.

HUNT: Thank you, Mr. Lieutenant Governor. I'm going to read something, and then I'll tell you guys what it is. I heard very good, like I said, compelling testimony at the hearing. I appreciated these people

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for coming and telling their story. That's hard to do, especially with an emotional subject like this. So I appreciate what they came and they talked about. And I did hear them, and it does make an impact on my decision. The art form when it comes to this is what kind of artists do we want to be? Do we want to be a Jackson Pollock and just throw paint all over the canvas, throw law all over the place, try to cover as much as we can without being specific? Or do we want to be a Michelangelo, making the right kinds of laws? And when it comes to the philosophy, I think, in part, a law such as this can negatively impact the free market idea of the relationship between the employer and the employee. Because now you're having the government step in, and most of us know whenever the government gets involved in anything, there's a lot of unintended consequences. It typically never turns out the way we wanted. It gets interpreted differently. And so I think it's best left up to the employer and the employee. If I was the employee and I felt that way, some of the stuff they've been saying, I'd quit. I'd tell my friends. I'd put it on social media. That's sometimes the most impact you can have on a business, hit them in their pocketbook. As an employer, they should understand that every action they take has a ramification. You know, when I was in business, you know, you're talking about the opinions of your customers. If one person is satisfied, if they're happy with their job, they're going to tell one other person. If they hate their job, they're going to tell 20 people. And I think that is a free-market idea on what we should stick with and not get the government involved in this. That was what Senator Ben Hansen, the introducer, said on a bill to ban discrimination against people with natural hairstyles, against black women with natural hair. He said that's something that needs to be between the employer and the employee and not get the government involved in it. When we're talking about the choice to get a vaccination, which is the "choiciest" choice to ever choice-- you really made that up in your head, what you were going to do about it-- versus something like the type of hair you have or if you are LGBTQ or if your parents are LGBTQ, in the case of many schools that discriminate, the introducer of this bill has consistently said that the government should not step in and get involved, except in this case where the employee is making a specific choice to not get vaccinated, in this case, with COVID-19, to not get vaccinated, to transmit a communicable, deadly disease. Something like having black hair is not contagious. It's not going to affect anybody but, but the person who's having that experience. Something like being LGBTQ is not contagious. It's personal. It affects only the person that's living that life, but a person who chooses not to get vaccinated, that choice can have health ramifications for everybody else in that place of business, for their families, for children and

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elderly parents and people they're taking care of at home. And how frustrating it must be to go to work, to have to earn a wage and work a job to support your family in a pandemic, and then you get sick or someone in your home gets sick because one of your coworkers got a vaccine exemption and the employer couldn't do--

FOLEY: One minute.

HUNT: --anything about it. To quote the introducer, Senator Ben Hansen: If I didn't want to get vaccinated and my employer said I had to, just quit. Put it on social media, put them on blast, talk about how, you know, unjust they are and they're attacking your freedoms. There's a whole group of people out there who are going to be with you and who are probably going to help you get a job at a place that's more like-minded to what you think. I'm against this bill because of the precedent it sets for inserting government in private business, and I'll continue on my next time on the mike. Thank you, Mr. President.

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

CLERK: Mr. President, the-- Senator Matt Williams would move to amend the committee amendments with AM1805.

FOLEY: Senator Williams, you are recognized to open on AM1805.

WILLIAMS: Thank you, Mr. President, and good morning, colleagues. As you were told earlier, Senator Ben Hansen is not able to be here today. As Vice Chairman of the Health and Human Services Committee, Senator Hansen asked me to introduce this amendment on his behalf. I would again let you know that Senator Hansen has worked very hard with a number of people to thread the needle on this legislation. He's worked with the State Chamber, the Nebraska Health Care Association, the Department of Health and Human Services-- all of those things. LB906, with the amendment that we are offering right now is threading the needle. As I, I men-- mentioned, it strikes a balance between the protection for personal freedoms that you have heard about and also allowing employers the opportunity to make decisions in their own businesses that, that many of us believe they should also be allowed to make. The amendment, AM1805, again is a, an amendment which harmonizes language for those companies that have to deal with the Center for Medicaid Services, CMS. AM1805 clarifies language at the request of various healthcare organizations in regard to how LB906 would relate to Medicare-certified and Medicaid-certified providers or suppliers. The goal of this bill is to not interfere with the CMS

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guidelines. With this in mind, AM1805 explains Medicare certification and Medicaid certification providers, defining them as an entity subject to the federal Centers for Medicaid and Medicare Services COVID healthcare staff vaccination requirements. Those are already federal requirements that are there. With LB906, employers have to allow, and employees to claim medical or religious exemptions from COVID-19 vaccination mandates they might implement. But because of the further requirements CMS might be held to, this amendment allows employers working with CMS the ability to require additional procedures, documentation, or accommodations as necessary to be in compliance with federal law and to maintain observance of the rules and regulations the federal government has laid out for them. Again, this is done at the direction of DHHS under their time frame. Also, the notification and the vaccination exemption form under this amendment would need to be put out in the 15-day timeline that the original bill had. These are two very simple things that harmonize this language. I would again encourage everyone to vote green on this and move this amendment along. I would encourage you to remember that this is not a discussion about the efficacy of vaccines. You know, Senator Hansen has a view on that. I certainly have a view that may be different than that, but I think our view about what we should do as a Legislature to protect those individual rights and also protect the rights of the business community are encapsulated in the compromise of LB906. I would encourage your green vote. Thank you, Mr. President.

FOLEY: Thank you, Senator Williams. Moving back to the debate on the bill and the amendments, Senator McCollister.

McCOLLISTER: Morning, Mr. President. Thank you, colleagues. I have a few questions on this particular bill and the amendment, so I'm wondering if Senator Arch would yield to a few questions.

FOLEY: Senator Arch, will you yield, please?

ARCH: Yes, I will.

McCOLLISTER: We talked about this bill, and like to refer to my in-laws, aged 92 and 94, living in their apartment at the Arboretum and they have to bring in home healthcare people to help, help them get up, take baths, and that kind of thing. And the particular company they were using were employing people that were unvaccinated. In that kind of environment, could they have asked or required that company to provide only vaccinated workers to help in their, their apartment?

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ARCH: This particular bill does not deal with that. This particular bill, deal-- excuse me-- this particular bill deals only with employee relationships, the employer to employee. However, my reading of that, CMS requires it under certain conditions. If the home health agency is required to follow conditions of participation, they would be required to have vaccinated employees. CMS requires that. However, there are others that do not, are not under the conditions of participation, and they are not mandated at this time. So that would depend upon the company, and that would be something that your parents could research.

McCOLLISTER: But wouldn't you think that a home healthcare provider would be under those regulations and obligated to at least know whether or not an employee was vaccinated or not?

ARCH: CMS has had, has issued some very specific regulations on that, and I'm not familiar with all of those regulations, but that would be under the jurisdiction of CMS, not this bill.

McCOLLISTER: Yeah, the definition of the bill, if I'm not mistaken, is the individual strong, moral, ethical or philosophical belief or convictions. Doesn't, doesn't that definition seem awfully vague to you?

ARCH: That was the original description of the bill, and that language has been struck and replaced with AM1729. This does not deal with philosophical objections. This deals with religious and medical exemptions.

McCOLLISTER: I understand. I'll have to read the amendment. Sorry, I haven't done that. If the employee refused to accept or at least invest-- if an employer, I'm sorry, refuses to accept or at least investigate the religious exemption, what happens then? And the employer requires a vaccine for that employee, employee.

ARCH: There would be, the employer-- the employee would have opportunity and, and recourse in civil court on that employer if they felt as though that their religious rights under the First Amendment were not respected. And so there would be, there would be a path for the employee to pursue.

McCOLLISTER: Is there a penalty in either the bill or the amendment if it, if it comes to that?

ARCH: There is. The remedies are, are fact-specific, but may include compensatory and punitive damages if it goes to civil court.

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McCOLLISTER: I understand childhood vaccine, vaccinations are still in place.

ARCH: That's correct. This is only employer-employee relationships.

McCOLLISTER: An employer is under OSHA requirements. I certainly knew that during my 35 years in business. Doesn't an employer have an obligation to provide a safe working environment for all the employees in their employ?

ARCH: I believe that's exactly what the Supreme Court discussed with the OSHA mandate, where they--

FOLEY: One minute.

ARCH: --where they said that the OSHA mandate, the authority from Congress was not granted to OSHA to apply that mandate through OSHA.

McCOLLISTER: Hospitals, as we've been talking about, still have the right to require vaccinations, correct?

ARCH: Correct. CMS mandates that.

McCOLLISTER: Thank you, Mr. President. Thank you, Senator Arch.

FOLEY: Thank you, Senator McCollister and Senator Arch. Senator Groene.

GROENE: Thank you, Mr. President, I stand in support of LB906 for one word that's in there that says, in Section 3, "employer that requires applicants or employees to be vaccinated against COVID shall-- 'shall'-- allow." Because right now there's a federal, you know, about a religious conviction exemption, but in my experience with the Union Pacific Railroad and others, they were all turned down by a corporate employee-- no reasoning, they just turned it down, said you didn't rationalize it. I have not heard of one person where that exemption was given. They used the excuse, Well, did you ever have a vaccination? They said, Well, yeah, my parents had it at three years of age. Well then, therefore, you, you're not against vaccinations and you don't have a religious conviction, and, therefore, you don't get it. Well, I don't know about if they knew about the thief on the cross, that on the last minute, he could have a religious conviction change of life, but they probably didn't read the book. But the "shall" is important, very important in this bill. I do have a concern about-- I don't know what an employer may require an employee granted an exemption under this section per, be periodically tested for

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COVID-19 at the employer's expense or wear a mask. That doesn't fit in this bill, has nothing to do with it, especially with the science that's out there. Why would you discriminate with somebody who might have natural immunity because they were infected and didn't get the vaccine, which the CDC now has agreed with what I said a year ago, it is the best protection people have is the natural immunity. Look it up on the CDC website. Also, the CDC says-- and it's common knowledge-- that people who have been vaccinated can carry the virus and can spread it. Read between the lines. People with the vaccination do get COVID but, they claim the severity of the infection is less; but they still spread it. So why would you pick on people who might happen to carry it over people who could carry it because they've been vaccinated? That's the science. This bill don't follow science. This portion of this bill does not follow science. You're discriminating a group of people who have no more susceptibility to spreading the virus than somebody that's vaccinated. That's science. And I'm a little concerned about the last amendment, AM1805, where it says a Medicare-certified or Medicaid-certified provider or supplier or a federal contractor. I thought this was about Medicaid or it means any federal contractor, not just medicine, Medicaid. We're back to the railroad or the government can say, federal government can say you can force anybody who contracts with the federal government to be vaccinated. That federal contractor needs to come out of there. I'm OK with the Medicaid, but that federal contractor line needs to come out of there. Read the line, the language. Senator Arch, maybe you can explain the federal contractor. Is the intent to be only those in the medical profession? So would you take a question, sir?

FOLEY: Senator Arch, would you yield, please?

ARCH: Yes, I will. The question, question regarding federal contractors, so there were two, there were two cases that were heard by the Supreme Court; one was OSHA, one was CMS. The Supreme Court ruled that OSHA did not have the authority from Congress to implement the mandate. They did rule that CMS did have the authority through their conditions of participation. The federal contractor was not heard in--

FOLEY: One minute.

ARCH: --by the Supreme Court, and the, and, and the-- so the understanding there is that, that the condition, a condition of contracting would allow that in, in the silence of the Supreme Court.

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GROENE: So this does not apply just to medical institutions. This federal contractor applies to all federal contractors.

ARCH: This is, this is this federal subcontractor. That's correct.

GROENE: Thank you. But the opening on it by Senator Williams-- which I'm not blaming him, he's doing this for-- made it sound like this was just for Medicaid. But that little line in there says it isn't-- or for medical facilities. It needs to come out because right now, that OSHA state-- agreement is off the table, according to President Biden. Why is it in there? It needs to come out. At the end of the day because of the "shall," but there's too many loopholes put in here. And it's false, it's false about the wearing of the mask.

FOLEY: That's time.

GROENE: Thank you.

FOLEY: Thank you, Senator Groene. Senator Friesen.

FRIESEN: Thank you, Mr. President. I support the concept of the bill. I think parts of it have been probably watered down too much. But one of the things that I want to talk about that's not addressed in the bill, and that either we can do that on Select if we get there. But I, I do need to talk about something like this. We had a contact from a con-- it wasn't a constituent, but a concerned citizen that said, gave an example of a college student. You could be in your third year at the university and suddenly now the vaccine mandate is there. And they truly have a religious belief in not getting that vaccine and suddenly they're kicked out of school. Should the university be forced to refund all their tuition or at least make sure their credits transfer to another college? You know, we allow athletes to transfer and carry their credits on to another school just because they don't get enough playing time. I don't think that we should ignore the fact that there could be students who are forced out of school because of this. And I want to make sure that those credits either transfer or all of their tuition that they've paid in gets refunded to them. So I, I think that's something that should be addressed in the bill down the road. And I'll be talking to Senator Hansen and I've mentioned it to Senator Arch this morning. But those are, those are a couple of things that, at least, I'm going to be looking for. And I know there's a lot of support for this out in the, in the community, but I think, in the end, I was hoping that it would be a little bit not as watered down. But again, I was always told to take a half a loaf, so I will support

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the bill as written, but I will look for some changes in Select. Thank you, Mr. President.

FOLEY: Thank you, Senator Friesen. Senator Blood.

BLOOD: Thank you, Mr. President. Fellow senators, friends all, I do stand in support of the amendment, AM1805, but I'm-- and I agree with the amendment made by AM1729, but I'm not sure that I support the underlying bill as a whole and, and here's my reasoning. I agree with Senator Hunt, who talked specifically about allowing businesses to do their business without interference, but from the very beginning, when Senator Hansen started marching in this parade, I had one question for him. And to answer that question, I'm going to ask that Senator Lathrop please yield to a question because I think he has a, has good knowledge of the question I'm going to ask.

FOLEY: Senator Lathrop, would you yield, please?

LATHROP: Sure.

BLOOD: Senator Lathrop, thank you for, for helping me with this. So my concern is what is the definition of Nebraska being an at-will state? What does that mean for employers and employees?

LATHROP: OK, so that's a pretty common question that I actually get in my law practice when people call up, wondering if there's been discrimination. At-will employment means very simply this, that the employer can terminate you or you can quit a job for any reason, no reason, or a silly reason. But unless there is a contract-- so that generally covers union people or folks that are actually hire in people that have a contract-- or if that action is discriminatory towards a protected class. So you can tell somebody, you know, I don't like the way you typed that document, you're fired, or I don't like the color of shoes you have on today, you're fired. But you can't do it because they are a member of a protected class.

BLOOD: So as an employer, if I wanted to fire somebody because they chose not to get a vaccination, would I have that right?

LATHROP: Provided there's no protections in any other statute, I-- the, the, the challenge I'm having answering that question-- I think I could. I think I could walk in and let one of my staff go because they're not vaccinated if I chose to, unless there is a statute that stops me from doing that.

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BLOOD: Identifying the statute, do you see that there's those protections in this bill? Have you seen anything that would lead us to believe that?

LATHROP: That, that I'm not comfortable answering that question--

BLOOD: OK.

LATHROP: --Senator Blood, because I have not looked at it in that context. I can tell you what an at-will employment means and how it applies, but I'm not familiar enough with things coming out of the federal government. I did turn my light on to talk about an immunity bill that we passed last year and how this may or may not affect that and that might be relevant to this exchange.

BLOOD: I appreciate it, and I didn't tell you I was going to ask that second question, so I--

LATHROP: No.

BLOOD: --apologize for putting you on the spot.

LATHROP: No, that's all right.

BLOOD: But I do appreciate your answer. Thank you, sir.

LATHROP: Sure.

BLOOD: So from the very beginning when Senator Hansen asked us to go into a special session in reference to vaccinations and mandates, my first request was I would agree to it if we would also revisit the at-will laws here in Nebraska. But that was not something that Senator Hansen wanted to do. And so the concerns that I have is: Are we writing good policy or are we pandering to the masses once again? Because when that special session was supposed to happen, Senator Hansen-- and God bless him for doing this-- was climbing a mountain in Africa. So I'm not sure how authentic these bills, these actions are because Senator Hansen, again, and I know that--

FOLEY: One minute.

BLOOD: --he had a commitment, is not here again today, but he could have put a Speaker's hold on this bill and been here himself to answer these questions. And I have other issues I want to bring up that pertain to the businesses to make sure that we're not making their jobs harder. I know we feel like we're protecting them, but I see the

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opposite. And we're going to discuss it further here in a little bit. Thank you, Mr. President.

FOLEY: Thank you, Senator Blood. Senator Hunt.

HUNT: Thank you, Mr. President. I think that, at the end of the day, with the passage of AM1805 and the committee amendment, that LB906 is kind of a nothing bill. And as Senator Friesen and Senator Groene said that they don't think this goes far enough and it's been walked back too far, that's what I think has happened as well. Obviously, I don't support the underlying bill. I don't support the idea of government interfering between an employer and an employee relationship in a public health context because I don't think that that's in the best interest of public health. And the choices that people make about their health, whether that's to get vaccinated or to wear a mask or to use contraception, or, you know, there's all kinds of choices that people make. And not all of those choices are personal. You know, a lot of health choices that we make-- you know, Senator Ben Hansen has also championed bills to say you don't have to wear a helmet when you're riding a motorcycle or you don't have to wear a seatbelt when you're riding your car because we believe in freedom. And you know, when there's a question up, we always err on the side of the individual. We always err on the side of freedom. And so he has championed bills like that in the past. But the decision to get a vaccine is not like the decision to wear a seatbelt or the decision to wear a helmet or having a, you know, being Black and having a natural hairstyle or being LGBTQ because a decision to be vaccinated or not is not a private decision. It has ripple effects beyond that person. And in the context of this global pandemic, we do have science that shows this. So we know the motivation behind this bill. We don't have to act like, you know, oh, this has nothing to do with the efficacy of vaccines. This has nothing to do with any political statements about COVID, you know, misinformation or anything like that. It's just, you know, a religious freedom bill or something. We all, you know, we weren't born yesterday. We all know that that's not true; that's absolute bull crap. Senator Hansen has been open about his views on vaccines since before he was here, before he was elected. And when we're talking about vaccines, something that's a choice within a person's control, the introducer is the champion of exemptions and special rights that end up harming others. But when we're talking about something that a person who's not heterosexual or a Black person with a natural hairstyle, things that aren't in people's control, the introducer says that government should not get involved in that relationship between the employer and the employee. So that's why I can't take this argument seriously that it's not about COVID, it's not

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about misinformation, it's not about efficacy of vaccines, it's just about freedom because when it comes to other issues, he does not stand up for that same freedom. So there, bald-faced, you can understand the motivation for this bill. This is also, unfortunately, you know, by having this be a priority bill, by having this be up-- and of course, the introducer is not here today-- we've opened up a forum again in the Legislature for members to stand up and spread COVID misinformation. Senator Groene saying that getting COVID and having natural immunity is better than a vaccine, that's just not true. It's an immunizing event, having COVID, it inculcates you more against the virus, but it is not the same.

FOLEY: One minute.

HUNT: Or members talking about how masks don't work, which is exactly why I wear a mask on this floor, and I have other colleagues who do the same thing. And we talk privately about how, because we have so little trust in this body and we don't know who here is vaccinated and who isn't-- and we know that some of you aren't. And we know that some of you don't wear masks ever, so on and so forth. I can't afford to get sick and bring something home to my child, bring something home to my family so I wear a mask. It costs me nothing. It's no risk to me. Thank you, Mr. President.

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

CLERK: Mr. President, I have a priority motion. Senator Arch would move to bracket the bill.

FOLEY: Senator Arch, you are recognized to open on your bracket motion.

ARCH: Thank you, Mr. President. I intend to remove this, withdraw this as, as soon as I have a chance to speak here. But there's, there's some misunderstanding about this bill because I think there's a little bit of discussion about the original bill versus this amendment, and some of the comments have been made, have been in relationship to that original bill. And, and here's, here's, here's what I would say. First of all, the original bill has been replaced, so we're talking about AM1729. This AM1729 is a clarifying statement. It is a, it is a clarifying statement to the employees and to the employers of the state of Nebraska that there are two exemptions; there's one that's a religious and there's one that's a medical. Having said that, the question, the question that I have been asked is: So does this require an employer to accept whatever is written down into medical and

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religious exemption? And the answer is yes, under federal guidelines. And that last conditional statement is extremely important because I want to, I want to read to you part of the EEOC guidelines on COVID. This is what it says. So let's say an employee applies for a religious exemption. Here are the guidelines from the EEOC to the employer: An employer should assume that a request for religious accommodation is based on sincerely, sincerely held religious beliefs. However-- OK should assume-- however, if an employer has an objective basis for questioning either the religious nature or the sincerity of a particular belief, the employer would be justified in making a-- capitalized-- limited factual inquiry and seeking additional supporting information. So, so this is a clarifying statement to the employers. You do follow federal guidelines in the application of this state law. There is a clear Supremacy Clause in the Constitution of the United States. So with that, if it conflicts federal rules. So, so with that, you use these guidelines as an employer to make the determination, but you begin by assuming that they have a sincerely held religious belief. One of the things that we heard in testimony in our committee was that was not always the case, that employees were called in to make the case rather than to answer factual questions. They had to make the case. They had to, they had to declare that I have rights under the First Amendment of the Constitution rather than following these guidelines. So we are saying to employers: Yes, yes. If a, if an employee makes a request, an application, fills out the form, submits it to the employer, yes, they need to respond to that employee. However, they are still following federal guidelines. So we don't have a Supremacy Clause issue. We're not in conflict with federal. To Senator Hunt's comments and to Senator Blood's concerns about the federal government being involved, the federal government already is involved. The government already is involved. So we aren't making new law here. This is a clarifying statement that is being provided as guidance to our employers and employees. And I know Senator Hansen has, has worked very hard with the Chamber of Commerce, with others, particularly as with the CMS amendment that Senator Williams has introduced, worked very hard to make sure that those concerns are covered. So I only say that this is not imposing anything additional. This is a clarifying statement to the employers and to the employees. Employees, you have rights under the Constitution. You have rights under EEOC. You have those-- you have the ability to apply for a medical exemption. You have the ability to apply for a religious exemption. And employers are obligated to start with, as it says here, should assume that a request for religious accommodation. There was another comment that was made, and that, and that, and that had to do with, well, you know, the thief on the cross at the, at the last

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minute. Here's what the EEOC's, EEOC says about that: 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. So the-- to the employee that walks in and says: Well, yes, I've received other vaccinations, but now I sincerely believe that this is against my religious belief, that is allowed. EEOC says just because they change their mind doesn't mean that it is not a sincerely held religious belief. So we're encouraging the employers of the state to take a hard look at the guidance that is provided, and, and, and have a standardized form that the employees can use to submit to their employers for medical and for religious exemptions, the two exemptions that are allowed under CMS. They're allowed under, under all mandates because, one, they strike at the heart of the First Amendment and the religious rights, and two, it allows for that under the Americans with Disabilities Act. So with that, I will withdraw my bracket motion.

FOLEY: The motion is withdrawn. Moving back to the speaking queue, Senator McCollister.

McCOLLISTER: Yeah, thank you, Mr. President. Senator Arch, will you yield to a few more questions?

FOLEY: Senator Arch, would you yield, please?

ARCH: Certainly.

McCOLLISTER: Great. Let's presume that we have a small insurance company, five employees, just five employees, and one of which-- one of those employees is undergoing cancer treatment. Would the employer, on that basis, be entitled to require all the other employees to be vaccinated?

ARCH: The employer has the right to mandate vaccines for all employees, regardless of the situation with their employee. So they, so the answer is yes, but it, it would have nothing to do with the other employee being sick. They have the right to mandate.

McCOLLISTER: They do. Well, that employee, let's say, the one that refuses to be vaccinated, will contest that. And, and let's, let's follow this through as, as the thing unfolds. So that employee contests the requirement to be vaccinated, he sends to that, that employer, the-- he contests the exempt, exemptions. So the employer then now has that employee talking about an exemption. Let's presume

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the employer then says: Sorry, you have to be vaccinated. So the, the relief for that unvaccinated employee is for them to go to court, correct?

ARCH: Well, there would be a couple of steps in between. So the first would be, I'm assuming-- the employee under your scenario here, I'm assuming the employee would apply for a medical exemption. That would require a physician, would require a note from the physician. It would then, it would then be given to the employer. The employer has the option for accommodation. Can the employee work from home? What, what can be done to accommodate as long as it does not impose undue hardship on the, on the employer? So accommodation could be granted, you might be able to work from home, whatever the case might be. But yes, the employer and employee would have some options prior to any employee having to pursue other, other, other options.

McCOLLISTER: If it does end up in court, there's no penalties in this-- either the amendment or the bill. Is that correct?

ARCH: Not specific, not specific to this, but there are, there are remedies that would be available that would include compensatory and punitive damages if, if the courts would find in that favor.

McCOLLISTER: I understand. One, one more question, Senator Arch. If a company is hiring employees, can they require any employees that they would hire to be vaccinated?

ARCH: They can require any-- they can, they can mandate. This is, this does not infringe upon the rights of the employer to require mandates. I mean, we, we've struggled with the issue because, of course, there are certain federal mandates that are imposed upon certain employers, but there are other employers who choose voluntarily, on their own, to req-- to mandate. This does not, this does not step between that. They, they can continue to mandate as long as they follow the, the protection of religious and medical exemptions.

McCOLLISTER: This bill does not provide for the unvaccinated to be a protected class, isn't that correct?

ARCH: It does not. I mean, Senator Lathrop talked to that with regards to protected classes. It certainly does not add a protected class into Article VII.

McCOLLISTER: And just to reaffirm, at-will employees could be fired or let go for any reason, vaccine or not, correct?

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ARCH: As long as their rights are not violated.

FOLEY: One minute.

McCOLLISTER: Thank you, Senator Arch.

FOLEY: Thank you, Senator McCollister and Senator Arch. Senator Lathrop.

LATHROP: Thank you, Mr. President, and colleagues, good morning. I was listening to this debate. I, I really wasn't even going to get involved, and I wasn't sure I had a problem with the bill. But then I started thinking all this COVID stuff, it took me back to LB139, Senator Briese's bill from last year, and I want to talk to you about that for just a second and talk about what that bill does. So last year when we were working on LB139, it was an immunity bill for businesses. If one of their employees exposed a customer, could that customer come back and sue the business? And the answer is: Yeah, it would kind of be hard to isolate it because it's pretty hard to tell where you picked this bug up at. When we were talking-- when I was working with Senator Briese on it and the Chamber of Commerce, I'm like, ah, this COVID stuff, it's over. By the time this bill becomes law, we won't be dealing with COVID. Well, as it turns out, we had a whole nother wave of something called the Omicron variation of it. And so we went into more mandates and more guidance and more-- the CDC is doing stuff. And I have trouble keeping track of what the CDC guidance is. But when we did the immunity bill, which is essentially what LB139 does, what we, what we landed on as an approach is an employer will have immunity from a claim that an employee infected, for example, a customer, if they are following CDC guidance. So today we look at it and we go: Well, this Omicron thing is about over. We're probably done with COVID, but we don't know that. We don't know that today. We could have another wave of something called the Alpha or whatever, whatever, whatever the next version is going to be called. And it could cause lockdowns and different guidance. And what if that guidance is that your employees need to be vaccinated? Maybe that's what it is now, but, but that guidance and that immunity bill that we passed-- Senator Briese's bill last year, LB139, says an employer has immunity if they're following the guidance that is in effect at the time of the alleged exposure. So let's go six months down the road and we have this bill and Senator Briese's LB139 and the guidance is all your employees need to be vaccinated-- I-- they don't mandate that. They say that's the guidance-- and I'm running a barber shop or a salon. And I have an employee that says: I don't want to get vaccinated. OK. They're about this far away from the guy who's hair-- hair they're

cutting, right? There's-- and, and I'll just say this. They spend a lot of time with women doing things that take a lot longer than Senator Arch's haircut. And I think we ought to think about whether or not we're putting employers in a position where they're not going to benefit from LB139 because we're saying you can't-- these people can opt out of a CDC guidance that is the basis for the immunity. So in some ways, we are opening the door to a claim for an exposure that might happen, assuming they can prove it-- and I've always maintained that's going to be difficult-- but we're exposing the employer or taking away a defense if the employee can say: Here's my form. I'm not doing it. So just something to throw in there as we try to reconcile Senator Briese's-- and he dogged me last year on that thing. He dogged me. And I think it was actually a Senator Slama priority. We set out a method for a defense to these types of claims, and it requires that you, as an employer, be in compliance with federal guidance prevailing at the time of the alleged exposure. And I think this may be causing employers a problem we haven't thought through. And with that, I thank you for your time.

FOLEY: Thank you, Senator Lathrop. Senator Erdman.

ERDMAN: Thank you, Mr. President, and good morning. As Senator Lathrop alluded to, I wasn't planning on speaking on this bill, but I think it's important that I do. Early on in the interim, my staff and I worked on this issue. We had a very comprehensive bill that would have been far more protective than the one we have on the board today. I understand the urgency of getting something passed, but I had a second bill that we drafted, and that bill would have made unvaccinated people a special class, a protected class. We've done that in this body since I've been here. Senator McKinney had a bill to protect hairstyles, and we could have done that very thing and we could have had a protected class and that would have solved the issue that we're dealing with today. But I, I chose not to put that one in. Looking back at it, that maybe was a mistake. I maybe should have done that. But we don't dwell much on people who have antibodies. I think that is a significant oversight on our part because it is very important. It's very important to realize that the-- many studies show it's 20, 27 times more effective than any vaccination or what they call a vaccination can be. And we give them no credit at all. Doesn't make any sense, but a lot of the things that we do in government don't make a lot of sense. But what, maybe, I should do is prepare my protected class bill in the form of an amendment and place it on LB906 and solve this issue very quickly, very expediently and thoroughly. Because what we do here in this body is we analyze a situation, we figure out what the problem is, and then we most often attempt to fix it about

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halfway. But that's normal, that's what we do. We've been doing that for property tax and other taxes for the last 55 years. So it's nothing new. We're comfortable with that. We accept that as being norm here. So maybe I need to do that. Maybe I need to drop an amendment to make this a protected class under the same provision that Senator McKinney used, and we will solve this issue once and for all. Thank you.

FOLEY: Thank you, Senator Erdman. Senator Blood.

BLOOD: Thank you, Mr. President. Fellow senators, friends all, I again stand in support of AM1805. My only concern is that's actually only going to protect a certain sector of our health community. There will be certain mental health facilities and other areas that will not be protected by this, but I do appreciate the fact that this is done. I appreciate the fact that the bill has been watered down because I think, as originally written, it created many issues. But I'm still not convinced, especially now after listening to Senator Lathrop, whose, whose legislative knowledge is so invaluable to this body. Here, here's my concerns: we most definitely need to protect our businesses. And I know that businesses are concerned and looking for guidance. But with that said, I want to make it clear to the employees who are pushing for this bill, for the Nebraskans that are pushing for this bill, that even when this bill moves forward, if this bill moves forward, you can have your religious exemptions denied, just like you can at the federal level because the guidelines, based on what I saw in this bill-- and Senator Arch can correct me-- are basically exactly a mirror image of what they do when you request for exemption at the federal level. And it's a good, good policy the way it's written, but they make it clear that it's still going to be up to the business. And so the question that I have is that, do we really need a bill to do something that can already be done and is it going to prevent people from refusing your religious exemption request any more so than if we didn't have it? And based on the way this is written, I, I kind of feel like this is a fluff bill, this kind of pandering to the masses. And I know the people who are choosing not to be vaccinated are frustrated, and I know the businesses who are being put on the spot on this issue are frustrated. But I also know Nebraska is a at-will state, and you can go ahead and fill out this form but if, deep down, your, your employer doesn't feel that what you're saying is valid, they don't have to accept that. And so where are you at? You're not anyplace further than you were before. And so I get this a lot on a lot of bills, and people are, like, you've got to help us fight this and you've got to help us move this needle, which I'm happy to do. But you've got to give me a bill that actually does those things and

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doesn't discriminate against the business owners and make it harder for them, and open a door to more legal issues, which I believe this bill does. And I'm not a lawyer, and that's why I had Senator Lathrop speak earlier. I wanted to have Senator Wayne answer a few questions, but I know that he's engrossed in a meeting right now. Got quite a few lawyers, I may just start cherry-picking a couple, but I, I don't feel that this bill is going to change anything. I think it's going to help give guidance to businesses, but it's not guidance that doesn't already exist. It's not going to change whether they can or can't accept religious exemptions. That already exists. So I'm not really sure what we're doing. And when I heard that Senator Hansen was working with a lot of the medical organizations, I don't disagree with that, but there's a big difference between people saying they now--

FOLEY: One minute.

BLOOD: --support a bill and that they're standing down from a bill. So they may no longer oppose it, but that does not necessarily mean they support it. So I want to make sure we're really clear when we say that these organizations worked with Senator Hansen and now it's a better bill. It may be a better bill, but that doesn't mean that they're still supporting it. Thank you, Mr. President.

FOLEY: Thank you, Senator Blood. Senator Hunt.

HUNT: Thank you, Mr. Lieutenant Governor. First, what I want to clarify to Senator Erdman and other people who are engaged in this conversation, I do not support making vaccinated people a protected class. Nobody is talking about that. No serious person on Earth thinks that that's a good idea. Nobody in this room is trying to do that. I'm saying that if an employer wants to say: Hey, if you're going to be working here in my business that I've invested a lot of money in, that I've taken the biggest risk to, to run and manage here, and you're going to be interacting with all of these people from the public and all of these other employees that we have, you're going to have to get vaccinated-- maybe you're going to have to get boosted, maybe you're going to have to wear a mask when you're here-- then we should not interfere in that choice. What we're talking about here is choice. When we talk about a protected class, what we're typically talking about is people who can't choose that thing about them. They can't choose their race or their nationality or their sex or their disability or anything like that. Getting vaccinated is a choice and as an employer, which I am, the parameters that you set for your employees who work in your private business is also a choice. And if any of my employees don't like my choices as an employer, whether it's

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what the uniform looks like or what the hours are or what the pay is or what the job duties are, or whether you have to get vaccinated, then go make another choice and get a different job. All I do is drive down the street, you see a help-wanted sign on every, every single place. You can make \$20 an hour working in fast food, which-- side note-- has a lot of teachers quitting the education field because they can make more money in other industries. But this state is not out of jobs. We are not for want of places of employment and this is really what the free market is about. And I thought that Senator Ben Hansen, the introducer, was the champion of this. Oh, only when it actually does influence a protected class like LGBTQ people or Black people, only then do we not want the government interfering quote unquote in the quote rights of an employer unquote. To me, this, with the addition of these amendments, this is a nothing bill and that's not what we should be doing here in the Legislature, elevating these fluff bills, these nothing bills. I think he should have picked a different priority that he could have passed without watering down so much that it's nothing. Arch used his time-- Senator Arch used his time with his motion to argue that this is just a clarifying statement, it's not different from federal law, it's a statement encouraging employers to look at federal law. That's what he said, word for word. We're just encouraging employers to take a look at the federal law. How is that a good use of our time here? What if every single bill I introduced in the Legislature was just something parroting and echoing something that's already in federal law? And then I introduced it and I said: This bill is really a message. It's really sending a message to employers that we just want them to really look at federal law. Doesn't that sound like a massive waste of time? It's silly. And it's also a waste of the opportunity that we have here in the Legislature.

FOLEY: One minute.

HUNT: Thank you, Mr. Lieutenant Governor. On the debate that we had for LGBTQ workplace protections, LB627 in 2019, I remember Senator Ben Hansen saying that we don't want to interfere between the employer and the employee, that this is what leads to bad outcomes. And we heard from Senator Lathrop that there might be some real unintended consequences. For example, if an employer is not adhering to future CDC guidance, that could potentially open them up for a lawsuit if one of their employees gets COVID. And that situation would exist because of the labyrinth of bureaucratic laws that we've passed here around this pandemic. What we need to say is: Look, employers, if you want to require vaccinations, fine. Federal law already exists. We're not helping or doing anything by passing LB906. Thank you, Mr. Lieutenant Governor.

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FOLEY: Thank you, Senator Hunt. I see no other members wishing to speak. Senator Williams, you are recognized to close on AM1805.

WILLIAMS: Thank you, Mr. President, and good morning again. And I sincerely appreciate the, the debate that we're having on this. And for once, we're focusing right on a bill, which I think is, is appreciated. Again, I would tell you, this underlying bill has been worked on very hard by Senator Hansen and others and the Health and Human Services Committee. The idea here is to clarify what a business can and can't do. And the bill is very simple and it only deals with COVID vaccines. The employer, under this legislation, can require a vaccine, a COVID vaccine, of their employees, but they must grant a medical or a religious exemption from that. This bill does not cover anything with childhood vaccines. It doesn't cover anything with schools. And I would tell you, based on many conversations with Senator Ben Hansen and others, if there is an attempt to expand the scope of LB906 to include schools or more vaccines or things like that, that will blow up the compromise and also, it would be something that was not subject to the public hearing that we had on this bill because that was not part of what we had. Moving forward with AM1806, this is simply a clarifying amendment, again, to harmonize the language for those providers that deal with CMS, Medicaid and Medicare and it is necessary so that they aren't trying to comply with conflicting federal rules and something that we put in place. With that, I would encourage your green vote on the AM1805 and then also your green vote going forward on the committee amendment, which is a white-copy amendment and completely changes LB906 from its original version. Thank you, Mr. President.

FOLEY: Thank you, Senator Williams. Members, you've heard the debate on AM1805. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 33 ayes, 1 nay on adoption of the amendment.

FOLEY: AM1805 is adopted. Is there further discussion on LB906 and the pending committee amendment? I see none. Senator Arch, you are recognized to close on the committee amendment.

ARCH: Thank you, Mr. President. I also appreciate this debate. It was very good. We know we're wrestling with issues in our society today and in Nebraska, and these issues are, are impacting individuals. I made that statement that this is a clarifying statement to Nebraska employers that they must allow two exemptions following federal

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guidelines. And that is we felt as though, as a committee-- this, this AM1729 came out of committee 6-0-1 and we felt, as a committee, that that clarifying statement was needed, given the testimony that we heard. There was a lot of confusion. And the larger employers probably have enough attorney back behind them that can research all of these things, and, and get it clear and advise the executives how to handle this. Smaller employers will struggle with this, and, and so we felt as though that this was a clarifying statement. It's stronger than simply look at federal law; it is follow federal law, it is follow protection. This is not a, this is not a debate of science. I don't believe that it is a, it is a simple matter of saying get another job if, if rights are being violated. It is a statement of freedom and it is a statement of rights. There were several things that were mentioned in, in this discussion that I'm sure Senator Hansen will pick up. And one-- certainly the questions that Senator Lathrop rose, Senator Friesen mentioning the students, we, we heard, we heard some very strong testimony from students in our, in our hearing regarding how they were being handled as well and some of the issues they were facing. So I'm sure that he will, he will, he will pick that up. This was threading the needle for Senator Hansen. He and I discussed this at length that the threading the needle, of course, was really that the avoidance of violating of the Supremacy Clause in the Constitution. It's not a simple matter of saying we're just not going to follow federal mandates; can't do that. But it is a statement saying to the employers and to the employees, there are rights to be respected, and there are, there are federal guidelines to follow. And we're going to help you with the, with the creation of a form to make this as simple as possible and then, and then you need to follow that. So with that, I would encourage your support for AM1729 and the underlying bill. Thank you.

FOLEY: Thank you, Senator Arch. Before proceeding to the vote, I neglected to recognize the Clerk regarding other amendments. Mr. Clerk.

CLERK: Mr. President, I just need to withdraw AM1675 and AM1687 per Senator Ben Hansen's.

FOLEY: Thank you, Mr. Clerk. Those amendments--

CLERK: Thank you.

FOLEY: --have been withdrawn. Members, you've heard the discussion on the committee amendment, AM1729. The question before the body is the

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adoption of that amendment. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of committee amendments.

FOLEY: Committee amendment, AM1729, has been adopted. Further discussion, Senator Machaela Cavanaugh.

M. CAVANAUGH: Thank you, Mr. Lieutenant Governor. Good morning, colleagues. I just wanted to wait until all of the amendments were adopted to speak on this bill. I did not vote for it out of committee, and I don't intend to vote for it this morning. A lot of the things that have been stated on the floor this morning, I echo. This bill doesn't do anything. It's unnecessary. It's kind of a waste of our time. But here we are, having what is a good discussion about, about this work, our work requirements and right at what-- that we're an at-will state. So some really good points have been brought up today about just how we function. But one of the things that I really wanted to just say for the record is that I stand in solidarity with everything that Senator Hunt said about this body's inability to adopt anything that provides protections to people that you just don't agree with. And you're willing, you're willing to provide protections to, basically, white people-- white, cisgender normative people and I think that that is abhorrent, that you pick and choose who deserves your vote for protection and who doesn't. But I do appreciate Senator Ben Hansen's work on this bill, which is why I will not participate in a filibuster, but I just wanted to state, for the record, the hypocrisy of this body once more. Thank you.

FOLEY: Thank you, Senator Cavanaugh. Senator Hunt.

HUNT: Thank you, Mr. Lieutenant Governor. Passing a bill to say to employees that we're just going to follow federal law is ridiculous. It's a ridiculous use of our time. What if all of us introduced bills every year that said: Here's LBXYZ to ensure that Nebraskans are following federal law? It's a nothing bill. It's silly. We protect the rights of people until they're posing an active physical safety threat to others. And this bill says that employers may require unvaccinated workers to be tested regularly and wear masks or PPE and this poses a question about the rights of coworkers to be protected from exposure to unvaccinated people. What about their rights? What about the right to work in a safe environment? Everybody in Nebraska has the right to get a different job. And there are many employers-- there's a whole group of them on Facebook-- that don't require masks, that don't

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require vaccination, that will do all the QAnon conspiracy stuff that you've heard on the floor today from some people. So that is what the choice is. The people who have to go to work, to work with folks who aren't vaccinated, who aren't taking the pandemic seriously, who aren't following CDC guidelines, what about their rights to be protected? This is a mandate on businesses who choose to require employees to be vaccinated for safety because not only does it create this new layer of bureaucracy for Nebraska government where now they've got to make a form and now the employee-- the employer has got to have access to the form, they got to give that to the employee, they've got to do all the legality behind that, it's layers of bureaucracy introduced by the king of hating government intervention, Ben Hansen. This bill requires employers to offer this exemption, whether or not they agree with it, and it's been framed by proponents a lot as a workers' rights measure, as, you know, the right of workers to be protected from government mandates, but it's really a mandate on businesses that prevent them from operating as they see fit, as they want to. So if I, as a business owner, made the decision to require vaccines at my workplace for any number of reasons-- because I am at risk, because my employees have a preexisting condition, or because we work in really physically close quarters where transmission is high or because I only have a few key staff members and I can't afford to operate without them-- despite these reasons and more reasons, I would be required to let any employee who doesn't believe in the vaccine to not get it. And that could very well take down my whole workforce. It could take down my whole business at a time in Nebraska where this is a real concern for business owners. So all the business owners that choose this-- again, we're talking about choice and nothing in LB906 ensures the right to choice. Folks, it's already there. People can already choose where they want to work. They can already choose whether or not to get vaccinated. There's not going to be a federal mandate or anything like that. There isn't one now. But the right of a private business to say, you've got to get this protection for the basic, you know, thing of public health, now we're doing a whole show--

FOLEY: One minute.

HUNT: --to stand up against that. If this is just-- you know, the original bill did have to do with childhood vaccines. It had to do with schools, it had to do it with any old vaccine-- maybe not schools, I should correct myself. But the original bill was a lot more broad than it is now amended and that really reveals the intention behind LB906. And Senator Arch says that from, from testimony that they heard, they decided this is something that they need to do. I

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think from testimony they heard is from a lot of people who are afraid of being fired for not being vaccinated when there are other jobs out there that they can get that they're all sharing with each other on Facebook already. There are no medical conditions that make the vaccination unsafe. You can get it or not, but you don't have the right to put other people at risk in your private job.

FOLEY: That's time.

HUNT: Thank you.

FOLEY: Thank you, Senator Hunt. Senator Groene.

GROENE: Sorry, I don't need to-- thank you, Mr. President. I speak science. And Senator Hunt, I was going to have a handout here, but I have this from the CDC-- CDC statement on MMWR: COVID-19 Cases and Hospital, Hospitalizations by COVID-19 Vaccination Status and Previous COVID-19 diagnosis-- California and New York, May, November 2021. Today, MMWR study finds that during the Delta wave, both COVID-19 vaccination and surviving a prior infection provided protection against infections and hospitalizations from COVID-19. These are the words of the CDC. Scientists reviewed data from New York and California to determine the level of protection offered by COVID-19 vaccines, previous infection, and both. Between May and November 2021, people who were unvaccinated, unvaccinated and did not have a prior COVID-19 infection remained at the highest risk of infection and hospitalization, while those who were previously infected, both with or without prior vaccinations, had the greatest protection. I follow science, Senator Hunt. I always have. I don't do herd mentality, that I follow the herd. I follow science. This bill is discriminatory against those who have natural immunity. They can be forced to wear a mask when the CDC says they're the safest people in the workforce, safest in the workforce. But because they didn't go along with Pfizer and them and take a vaccine and they got natural immunity-- I am one of those. I-- by the way, I haven't been reinfected. Nobody around me has been reinfected in my family because we have the best immunity. Now, I understand precautionary for those who are ill and people have died of complications of that, fully understand that. But the reality is I got COVID-19 before the vaccines were available, fully available. There was no reason for me or others like me to take the vaccination. For empathy, is that how we run a government? You take it for empathy of those who had to take the vaccine? Or do we have individual freedoms? This bill, I do not like that part in it where it says those people will be discriminated against when we know, by science-- and I can get you that information too-- that those who have been vaccinated

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can be infected and can spread the virus. But they don't have to wear a mask. And the occurrence of it is just as high. It's higher in the vaccinated who have not had a previous infection to be infected but have a milder case than those that are unvaccinated. So you explain to me how we are passing a bill that does not follow science. Somebody explain that to me. That's science. So I would have to wear a mask when I'm the safest guy in the workforce where I work because I have natural immunity or I would have to take a test all the time when anybody in the workforce, vaccinated or not vaccinated, could contact and spread the virus. That's science. I guess I don't know if this is America or not anymore.

FOLEY: One minute.

GROENE: We are an advanced society and advanced societies follow science. We are not. We are doing socialist maneuvers where we're all the same, we all have to do the same thing, we all have to react the same way. We're a herd. We're herd animals. I support the bill yet because of the "shall," but listening to-- it was, I don't know if it was Senator Flood or who, Blood-- if this is just a rubber stamp of the exceptions that-- and the final, final decision is made by the company to believe-- to decide if somebody has religious convictions, I have a concern about that. So anyway, no, I will get this out. I will hand this out to you. This is not off some wacko, what you consider a right-wing group. This is a statement from the CDC made on January 19, 2022. Thank you.

FOLEY: Thank you, Senator Groene. Senator Vargas.

VARGAS: Thank you. I actually was not going to speak on this. I-- there's probably a couple of reasons why I wanted to get up. I'm pretty sure the last person in the queue. I don't know, I feel like we lost our way a little bit in part of the conversation here, and it's just really hard to hear this sometimes. Regardless of where you're at on this situation, it's really hard to hear this because-- I mean, look, all the data clearly shows that getting boosted and getting a vaccine prevents eventually being hospitalized or ending up in the system. It's not my opinion. That's just facts and it's also what we hear from our medical institutions. It's [INAUDIBLE] from our healthcare institutions. It's why we even had the community standards of care implemented because we continue to see this data. And I, I just had to get up because my dad's birthday just passed. There's-- folks, there's, there's literally hundreds of thousands of people that have lost their lives to this. And if we can't get to a point where we're actually talking about that employers and, in particular, we

should be encouraging and not doing anything that makes it more difficult to get a vaccine or even putting a label on it like it's a bad thing when we know that science continually proves that this is one of our best opportunities to fight against the pandemic. And I wish to God that my dad was alive or we could get him a vaccine. I don't want that to get lost in this because the public is listening to us. And I'm worried, I'm worried that the rhetoric or how we're talking about it is just so much focused on businesses and whether or not we can or cannot force them to do it, where we get past the fact and just say we should be encouraging everybody, no matter what, to be getting a vaccine because it's best for our communities, it's best for the public health, and it gets us all back to work, and it gets us in-- keeps us all safe. It sucks to have lost loved ones to this. I've been participating in a COVID-19 vaccine study because I want people to not be stigmatized by the vaccine. So please, I'm putting aside this because this is not the conversation we've been having as much and I wish we did. We should be talking to our communities about the benefits that science has to protect each other and our loved ones any given day of the week, and elevating any of the people that have been working on this in our communities, like healthcare professionals. And any loopholes or anything else that makes it harder for us to do that is not going to keep us safe if we have a future pandemic, a future variant. I appreciate the work that's been done in this bill. I still think it's a slippery slope, and I've heard and I've listened to Senator Hunt's points. I think they're well made. But that's what they should be about, encouraging our communities to get a vaccine because it's the best way to protect us against any past viruses and even this virus. I don't want anybody to lose loved ones, and I'm going to tell you every single day, I see my dad's face. I see what he looked like on a ventilator and I-- God, I wish nobody had to see that. I really, really do. So I hope we take that with us wherever we go with our communities. And I appreciate your time.

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

M. HANSEN: Thank you, Mr. President, and I'll be brief so we can get to a vote. We have been talking about what the CDC recommends and what the CDC guidance, apparently in an article that came out in the past few weeks. I'm reading from that same article. What-- quote-- what are the implications for public health practice? Although the epidemic, epidemiology of COVID-19 might change as new variants emerge, vaccination remains the safest strategy for averting future SARS-CoV-2 infections, hospitalizations, long-term sequelae, and death. Primary vaccination, additional doses, and booster doses are recommended for all eligible persons. Additional future recommendations for vaccine

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doses might be warranted as the virus and immunity levels change. Colleagues, the CDC believes in vaccines. Thank you, Mr. President.

FOLEY: Thank you, Senator Hansen. Senator Arch, you are recognized to close on the advance of the bill.

ARCH: Thank you. Thank you again for the debate. Thank you again for staying focused on, on this bill, and I would appreciate and I know Senator Hansen would appreciate the support and the vote on LB906. Thank you.

FOLEY: Thank you, Senator Arch. Members, you've heard the debate on LB906. The question before the body is the advance of the bill to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 33 ayes, 0 nays on the advancement of the bill, Mr. President.

FOLEY: LB906 advances. We're going to interrupt the agenda for a moment to recognize Senator Stinner.

STINNER: Thank you, Mr. President. Members of the Legislature, the pages will be passing out a preliminary budget. The preliminary budget was due today. You'll get a hard copy of it delivered to you. I want to emphasize it's preliminary and these-- this budget really, if you'd paid attention to-- of note is page 4 and 5, and it really kind of describes the actions of the committee and the differences the committee took as it relates to the Governor's recommendation. Very few differences. I think there's a Department of Ed ask that was-- that was delayed by the-- by the committee. TEEOSA actually went down by \$28 million. We also had questions about expanding the crime lab. We also excluded out of the request \$400 million for the Perkins County Canal. It's a big ask. It's a short session. We've got 123 hearings to go through, and the committee really wanted to have briefings on the canal, try to get educated as best we can so we can make some kind of an educated opinion relative to that. Those are kind of the differences of it. I think if you just follow the financial status where you have gone from about-- from the Tax Rate Review Committee, we had an excess of \$412 million. Right now on the preliminary we're right at \$105 million available to the floor. As I've indicated before, the committee will be looking at the budget, Execing on certain bills. The provider rates are not included in this budget and they will be in the final. There are-- there are some, some issues relative to that that we have to talk about and investigate as it relates to provider rates. We'll try to keep it as clean as we

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possibly can. We're looking possibly to come to the floor in the second week of March with that deficit request and adjusted budget. You can look at it. There's a table of contents here. There's lots of commentary on revenue. There's a lot of appendix that really break out on a line-by-line basis what the committee's recommendations are. So with that, I'll close. But if you have questions, just feel free to come and ask either myself or a member of the committee. Thank you.

FOLEY: Thank you, Senator Stinner. Moving back to the agenda, General File 2022 committee priority bills. Mr. Clerk.

CLERK: Mr. President, LB700 is a bill originally introduced by Senator Kolterman. It's a bill for an act relating to retirement; amends numerous sections. It-- investment-- it eliminates obsolete provisions relating to investment options under certain acts of the state investment officer, and the Public Employees Retirement Board; to change provisions relating to certain funds. It provides for a deadline for a certain compliance audit; defines terms; provide for retirement training sessions; eliminates a retirement education financial planning program. Introduced on January 5 of this year, referred to the Retirement Systems Committee, advanced to General File. There are committee amendments, Mr. President.

FOLEY: Thank you, Mr. Clerk. Senator Kolterman, you're recognized to open an LB700.

KOLTERMAN: Thank you, Mr. Lieutenant Governor. Good morning, colleagues. LB700 was introduced at the request of NPERS. It strikes obsolete provisions, inserts language that was inadvertently omitted in a previous bill-- in previous bills, and amends the NPERS director qualifications and the requirements for the NPERS and the PERB attorney. In addition, LB700 amends NPERS's current statutory requirement to offer two different educational programs: one for plan members under age 50 and one for members over age 50. By statute, each plan member is granted paid days off to attend in-person education seminars. In the past two years during the pandemic, NPERS has developed ten new videos and has created its own YouTube channel to enable members to view education videos any time. LB700 would adjust the number of paid days off for state and county members to adapt to the new education format, and it allows NPERS to evolve in its education programs and webinars for all the plans, and it leverages technology to reach even more members of the plans. Finally, LB700 eliminates the requirement for school districts and school members upon termination or retirement to report to NPERS whether the member was paid an early retirement incentive by the school district.

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Voluntary termination agreements, also known as early retirement incentives or inducements, are solely granted by the individual school districts. Even though these incentives have nothing to do with the school retirement plan administered by NPERS, the agency cannot calculate the school member's final retirement benefit until the data has been collected in order to ensure school district and members' compliance with the mandated reporting requirements. I'd be glad to answer any questions in regards to that. If not, I can move into the amendment at this time, if you'd like me to.

FOLEY: Yes, Senator Kolterman, if you could proceed with the committee amendment, please.

KOLTERMAN: I'll do the amendment and then I'll be open to some questions. So AM1704 becomes the bill. In addition to the original provisions of LB700, AM1583 is incorporated, which eliminates early retirement incentive reporting for the Omaha Schools Retirement System, which had inadvertently been left out of LB700, and realphabetizes the definition sections in the School and Class V School Employees Retirement Acts. And finally, it incorporates LB1043, which I also introduced at the request of NPERS to codify current practices and rules to ensure compliance with federal Internal Revenue Code requirements. The IRS requires that an individual terminate employment with all employers covered by a multiple employer retirement plan before an individual can take a distribution from their retirement plan. The school plan is a multiple employment retirement-- multiple employer retirement plan. The state of Nebraska is an employer covered by the school plan because state school officials employed by the Department of Education are eligible for school plan membership and certificate-- certified teachers employed by either HHS or Corrections who are covered by the State Code Agencies Teachers Association, also known as SCATA contracts, are also eligible for school plan membership. All other state of Nebraska employees participate in either the Judges, Patrol or State Employees Retirement plans. I want to be clear. The language and the intent of this bill is to cover any agency of the state which may in the future also employ certi-- certified teachers who are covered by SCATA contract or its equivalent successors, recognized by the state of Nebraska as the exclusive and sole collective bargaining agent for all teachers other than temporary teachers employed by the state agency. These provisions also address practices and rules for the Department of Education, state school officials, and HHS and Corrections certificated teachers covered by SCATA contract who previously or subsequently are employed by a school district, educational service unit, or any other state agency. It eliminates a current election

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option for a state school official when beginning employment with the NDE to remain in or become a member of the school plan or the state plan. AM1667, which is incorporated in AM1704, merely clarifies a term as used in LB1043 to make it more specific. Both amendments that were incorporated in AM1704 were passed on the Unicameral-- were posted on the Unicameral website about a week before the hearing to provide sufficient notice and opportunity for review by stakeholders. There was no opposition testimony to either LB700 or LB1043, as amended. There is also no fiscal impact. The bill advanced unanimously from the committee, and I ask for your support. So I know it's a very, very technical bill. There's a lot of things in this bill that are really just cleaning up issues. I would encourage you to ask questions. I want to make it very clear we are taking away the requirement for the PERB, Public Employees Retirement Board, and NPERS to collect the data from the early retirement incentive program that Senator Briese had several years ago. But that information still will be given to the Nebraska Department of Education so the-- so the information is still available. And I will tell you, I supported Senator Briese's bill at the time. I think it was a wise decision that we limit that and it's worked. We have a report that I've shared with both Senator Briese and Senator Groene because they championed that bill and that bill has worked. In fact, Omaha Public Schools completely discontinued their early retirement incentives, and all of the other school districts are reporting the information, but it's fallen off dramatically. So with that, I would encourage you to support this legislation, and I'd be glad to try and answer any questions you might have at this time. Thank you very much.

FOLEY: Thank you, Senator Kolterman. Debate is now open on LB700 and the pending committee amendments. Senator Groene.

GROENE: Thank you, Mr. President. I stand and I'll probably support the bill because most of it is just cleanup, and Senator Kolterman overall has done a good job with the retirement issues that we've had when I was on the committee also. But he mentioned Senator Briese and myself. Back my first year as Chair of Education, it was brought to my attention that some schools were-- there was a practice being done by school boards where they were starting to pay retirement bonuses as if it was a free enterprise system and the bonuses were stretched up to over \$200,000. One was 250 for an administrator at one of the Omaha schools to retire early. There was an awful lot, \$100,000 that was paid out over ten years. We all know the public employee retirement plan is a fine benefit. It's very nice. So anyway, we had a fight on the floor and Senator Harr at that time, him and I went toe to toe and we came to an agreement that the most they could offer early

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retirement I think was \$35,000. And that's in statute. It might be 45. But anyway, and then Senator Briese had a reporting requirement that came from him. Now this is one of those questions-- and Senator Kotlerman said, well, it's-- it's a-- we don't need the report anymore. It's working. It's-- it's costly report. Well, this is a conservative, doesn't put a price tag on accountability and disclosure or transparency. Now what came first, the chicken or the egg? Or did the practice stop because-- stop? Or did the practice stop because they had to report it and it was public knowledge? So has the public report stopped the practice? That's the question you got to ask. Does the speed limit work that people will be-- only go 75 miles or they don't on interstate, but do they only go 75 on the interstate because they want to or because that speed limit is there? It was an awful practice. It was costly to the taxpayers. It was basically a good old boys, yeah, I-- I-- you and I started teaching together 30 years ago. I went on to be an administrator and you're going to retire. I'll give you \$100,000 and we'll claim it-- the reason we're giving you the \$100,000 is that we can replace your \$80,000 job with some beginning teacher making 40, and it helps the budget. Sometimes it was used for troubled and trouble-- employee that was giving them trouble that they would give the early retirement instead of the fuss to get him to retire early. You know, there are some teachers out there that believe in discipline in the classroom, and we can't have that anymore, some of the older ones, so we ask them to retire early. But anyway, I have a hard time ever voting to eliminate accountability, transparency, and disclosure, a report that is required now. I don't know if Senator Briese, what he believes. It was-- I think-- I can't remember. I know I-- my bill eliminated-- put a limit on how much early retirement can be. Apparently, it was Senator Briese's bill that required the reporting, so I'll leave it at that. Overall, it's a-- it's probably a good bill. As I said, things coming out of Retirement Committee were actually pretty good when I was there. Thank you.

FOLEY: Thank you, Senator Groene. Senator Machaela Cavanaugh.

M. CAVANAUGH: Thank you, Mr. Lieutenant Governor and colleagues. I, as I had made a commitment to Senator Ben Hansen to not interfere with his last bill, I didn't want to-- I want to honor that commitment. So I didn't want to say what I'm going to say now on his bill. And so I apologize to Senator Kotlerman, but I'm just going to take a couple of minutes here to share a story about my morning. So I think most of you have heard me talk about my daughter, Della. She has asthma and she has very severe asthma. She has to do her inhaler multiple times a day. She has to do a steroid inhaler and albuterol inhaler. She has to have a crisis plan with the school. We have to have an inhaler in my

car, at my parents' house. We have inhalers like hidden all over the place. So this morning when we were getting ready to leave and my husband just got new N-95 masks for kids, and Della just started crying and said she didn't want to wear her stupid mask anymore. And she asked me, why do I have to keep wearing this? It's really hard to breathe. And I said, I know, and she said, you're making me breathe my own air. I said, I know, honey, I'm sorry. I'm sorry, but we have to keep you safe. We have to keep you safe. She said, but why do people-- why do I still have to wear it? And the only answer I could give her is because other people don't want to wear theirs. Other people don't want to get vaccinated. And until everybody does what they're supposed to do, we have to do what we have to do to keep you safe. So when I go to the grocery store and I see people not wearing a mask, especially when you're supposed to legally be wearing a mask, it is infuriating to me because I don't take my kids to the grocery store with me anymore. I haven't taken my kids to the grocery store in years. It used to be like a fun little outing, let them pick out ice cream, things like that. I am constantly trying to mitigate risk for my children, and my youngest child can't even be vaccinated yet. My, my two girls are vaccinated, but all of them wear masks. All of them wear masks. My three-year-old wears a mask and he wears it correctly over his nose, under his chin, and he wears it all day at preschool. So it's really frustrating when I leave three small children and I come here and the adults in the room can't conduct themselves like adults the way that my children are expected to. And I really wish after this many years that I didn't have to tell my eight-year-old with asthma that she has to keep wearing a mask that she doesn't want to wear. I wish that she could hug her friends the way I used to do on the playground with my friends. I wish she could sit by whoever she wants at lunch and not have assigned seating. I wish she could see her teacher's face. But hey, as long as we've got those protections in place for people who just choose not to, I guess that's all that really matters. And I believe Senator Hunt made the point about medical reasons that you wouldn't need to take the vaccine. The only medical reason to not take the vaccine is if you are allergic to something that's in the vaccine and that's true of any vaccine. So like, if you have an egg allergy, there's a lot of vaccines that people are allergic to. That's the only reason. Asthma, guess what? Not a reason to not take the vaccine. My eight-year-old daughter is fully vaccinated, and her side effects from the vaccine were nothing. She had no side effects from the vaccine. I had side effects where I was tired, but she had none. It'd be really great if the adults in this room and the adults in the state started caring about the kids, all the kids. Thank you.

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FOLEY: Thanks, Senator Cavanaugh. Before proceeding, Senator Gragert would like us to welcome a very large delegation of extension educators from all across northeast Nebraska. They are with us in the south balcony. Could those citizens please rise so we can welcome you to the Nebraska Legislature? Continuing discussion, Senator Kolterman.

KOLTERMAN: Thank you again. I want to make something very clear about this bill. In 2018, there was a bill that was introduced, LB457, that dealt with the early retirement program and it was amended into LB512. What it did was it put those early retirement incentives that remained in place under the lid, so it's included in the general fund of the budget. It's not-- it's not above. It was outside the budget limitations before, outside the \$1.05. I supported that bill that Senator Briese brought, and I thought that was good legislation. At the same time, it required-- it required that the report of those early incentives that we still allowed, and I believe the limit is now \$35,000 a year, if you're going to do it, it required that to be reported to the Nebraska Department of Education, as well as the NPERS, the PERB board. The reality is it has nothing to do with early-- early retirement has nothing to do with the retirement benefits that NPERS has available. And what's happening is NPERS is finding out that they have to wait on those reports to come in before they can actually start to pay out the retirement benefits to the teacher or the educator that wants to start collecting them. There's, there's actually no value of them getting in. It has nothing to do with them. So they're saying we aren't trying to eliminate the reporting. The reporting will continue to go to the Nebraska Department of Education, but it's not necessary that we get that at the PERB and the NPERS as well. So I wanted to make that very clear. The other thing I want to just comment on, Senator Groene when he was talking, he said the committee was really good when he was on it and we did good work. Well, I got to tell you, my committee is still a good committee. And even though Senator Groene is not on it, we continue to do good work and I'd like to thank my committee for all the hard work that they've endured over the last couple of years. Thank you very much.

FOLEY: Thank you, Senator Kolterman. I see no other members wishing to speak. Senator Kolterman, you're recognized to close. He waives closing on the committee amendment. Those in favor of adoption of the committee amendment, AM1704, vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 36 ayes, 0 nays on adoption of committee amendments.

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FOLEY: AM1704 has been adopted.

CLERK: Mr. President, I'm sorry. Senator Kolterman, I understand you want to withdraw AM1583.

FOLEY: The amendment is withdrawn.

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

FOLEY: Is there anything the-- members wishing to speak on LB700 as amended? I see no one. Senator Kolterman, you're recognized to close. He waives closing. The question before the body is the advance of LB700 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 36 ayes, 0 nays on the advancement of LB700.

FOLEY: LB700 advances. Proceeding to the next bill, Mr. Clerk.

CLERK: Mr. President, LB890. It was a bill originally introduced by Senator Walz. It's a bill for an act relating to education. It amends numerous sections. It changes the Tax Equity and Educational Opportunities Support Act. It eliminates a provision relating to community achievement plans and eliminates obsolete provisions. The bill was introduced on January 7 of this year, referred to the Education Committee, advanced to General File. There are committee amendments, Mr. President.

FOLEY: Thank you, Mr. Clerk. Senator Walz, you're recognized to open on LB890.

WALZ: Thank you, Mr. President. I want to talk a little bit, first of all, about our education system. Nebraska has a long, rich history of education. For years, our schools have developed students into bright, thoughtful, successful, and responsible citizens. And for years our local schools have been the hub of their communities, providing first and foremost, a quality education to our kids. But they've also been so much more. They've been resource centers for families. Three years ago in my district, they provided and delivered food and turned their schools into shelters for displaced victims of the flood. Our schools bring together our communities as one united community during opportunities to gather as-- gather at sporting events. They've worked alongside their community businesses to fill the needs of manufacturing, farming, and ag business, trade and construction companies, medical and nursing facilities, and technology businesses to create and provide curriculum and career centers that train the

future of their communities and their state. We've been fortunate to have local elected school board members that work diligently to be responsive to community needs, as well as fiscally accountable, spending many volunteer hours listening to constituents and researching and discuss-- discussing local school issues. We have community members, homeowners, and landowners who understand how important their school is to their community and who truly care and support their schools and their kids in their district. And I can assure you that that does not go unnoticed and it is appreciated. The growth of our state is proof that we have been economically rewarded as recipients of our education system in Nebraska. We have also heard for 20 years that property taxes are too high and we have all-- every single one of us have told our constituents that the only way to actually fix the property tax issue is to provide more state funding to our schools and less reliance on property tax. And honestly, we have tried to pass legislation, bills that would add more state funding to our schools to no avail. But in the past, the proposed legislation has always pitted rural schools against urban schools, small schools against large schools, equalized schools against nonequalized schools. We had winners and we had losers, and nothing could get done. This proposal came from the education community. And, colleagues, it should not matter where it came from, who came up with the idea, or who introduces the bill. What should matter to you is that we have a proposal. We have a proposal that works for all Nebraskans and all taxpayers. Last July, Troy Loeffelholz, superintendent of Columbus Public Schools, and finance director, Chip Kay, approached us with an idea. The proposal was fair, it was equitable, and it was simple to understand. It was designed to provide state funding to all schools and all taxpayers; 86 schools would become equalized, 86 more schools would become equalized. Prior to the introduction of this bill, we were determined to bring this as a team. We had multiple conversations and listening sessions with school officials, school boards, education and policy organizations, the agricultural community. Early this summer, Chip and Troy also sat down with Governor Ricketts and explained the proposal to him. We had listening sessions and conversations and opportunities for every senator on this floor to give input and provide feedback. As you can see, we were diligent in our efforts to assure that everyone, everyone had a chance to weigh in on this bill over the last six months and ask questions and give input. Since then, Senator Kolterman has become a very strong supporter. And two months ago, Senator Lindstrom joined our team introducing LB891, which provides the funding mechanism for this proposal. I want to thank them for their work on this. So let me highlight the components of LB890. This bill creates a new source of

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funding for school districts, Education Stabilization Base Aid or ESBA. In one year-- in year one, we provide \$550 per formula student to every school district. In year two, we provide \$1,100 per formula student. And beginning in year three, it grows by the basic allowable growth rate of 2.5 percent. As a side note, formula students is modified to count four-year-olds in preschool as a whole child, as opposed to only 60 percent. So this increases many school districts' formula student count. This bill also creates the Education Stabilization Trust Fund, which from-- which-- from which ESBA is paid. While the details of funding ESBA fund are included in Senator Lindstrom's bill, I do want to highlight the value in creating the separate fund. It is essential that we have designated sustainable funds for the future. While our current economic situation is good, we all know from history that in lean times TEEOSA has been cut to balance the budget, therefore, increasing property tax. By saving money in good years, we are preparing to support schools in year-- in lean years better than we have ever been able to do in the past. Think of it as a rainy day fund for education, and remember how important education is to our state. This, honestly, is one of my favorite parts of the bill and one of the key connections between LB890 and LB891. Allocated Income Tax Fund is increased from the current 2.23 percent to 10 percent in year one and 20 percent in year two. Twenty percent is what was originally written into TEEOSA in 1990, and I think it's time that we reinstate that. That taxpayer money should be returned to their district to educate their kids. The local effort rate, which you may recall calculates the amount of property taxes that a district has to contribute to fund their needs, is reduced in year one to 85 cents and in year two to 75 cents. It's currently at \$1. Net option funding and Community Achievement Plan are repealed. We have also created district specific maximum levies to ensure property tax relief is provided to taxpayers. And we have added a statutorily required TEEOSA report by the committee to the Legislature every four years that includes recommendations and any adjustments to the formula due to economic or other factors. As you will see from the models that should be distributed, this bill increased equalized school districts by year two to 158, up from 86 currently. There are six districts that are held harmless in year two. This results in \$728 million of direct property tax relief to taxpayers. The increased state funding of schools changes the overall funding split to an estimated 58 percent state and 42 percent local, moving us up from 48th in the nation to around 13th, 15th, somewhere in that range. These are great improvements for our schools and taxpayers across the state, and it makes a great statement to anybody who's thinking about moving to Nebraska that we as a state care about our education and it's a

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priority for us. I would ask for your support on this bill and vote green for our schools as well as our taxpayers in Nebraska. Thank you, Mr. President.

FOLEY: Thank you, Senator Walz. Before we proceed to the committee amendment, we have about 45 guests up in the north balcony. These are family and consumer science teachers and students from all across the state of Nebraska. Could I ask those citizens to please rise? We'd like to welcome you to the Nebraska Legislature. As the Clerk indicated, there is an amendment from the committee. Senator Walz, would you like to introduce the committee amendment, please?

WALZ: Thank you. The committee amendment does three things. Number one, it clarifies a couple of the calculations included in LB890. This does not change any of the calculations already done on models you received. It simply provides clarification of the math. Number two, it restores the community achievement plan back into law as a requirement for the 11 school districts in the Learning Community, as well as adding back into the TEEOSA formula. This change was very important to OPS, and it was very important to Senator McKinney. All other Learning Community schools are fine with this addition back into the statute. Number three, it adds a provision that all school districts receive a minimum of 20 percent basic funding. I plan on introducing an amendment that removes that addition. I ask you for your vote to adopt the amendment and advance LB890 as amended to Select File. Thank you, Mr. President.

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

CLERK: Mr. President, the first amendment filed to the committee amendments is by Senator Briese, FA70.

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

BRIESE: Thank you, Mr. President. Good morning, colleagues. I filed this amendment really to talk about this and clarify a few things, and I'm going to withdraw this amendment when I get done speaking. I really do want to thank Senator Walz and Senator Lindstrom and others for the enormous amount of work that they have done relative to reforming education funding in Nebraska. And I think from their work and their endeavors, they've probably come to realize, as I have multiple times, that it is an extremely difficult endeavor filled with a lot of roadblocks and pitfalls and questions and issues that are very difficult to overcome. But I do want to thank them, and I want to say, first of all, I agree conceptually with the concept of injecting

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more state dollars into public education in Nebraska. I fought to do, well, myself and numerous others have fought to do that for several years and have not succeeded at it. But again, so again, I do agree with the concept and I want to thank them for what they're doing. I want to thank the input of the education community and their work on this. But as I currently see LB890, I don't know what the amendments are going to do, but I cannot support it. And there's three reasons I can't support it. We talked about this at length on the discussion on LB986 that there has to be a mechanism-- if you're going to inject additional state dollars into public education in Nebraska, there has to be a mechanism in place to ensure those dollars yield property tax relief. Now I think I've heard an assertion that perhaps there is something in there that can do it, but I, I don't think it provides what needs to be done. And I'll continue to look at it. I'll continue to hear the arguments on it. But again, without a mechanism like we talked about in LB896 or a variation of that that assures that these additional dollars yield property tax relief, I can't support it. Number two, as I look at the spreadsheets and what this bill does, the first time I looked at the spreadsheet, I thought it had to be a misprint. And many of us from rural Nebraska have argued multiple times that the state needs to fund a larger share of our educational costs. And as I look at this spreadsheet, I look at Elgin Public Schools, year two, a few miles up the road from me. Their potential property tax savings, the purported reduction in the levy from this bill might be about, I think it was 5 percent, excuse me, 4.9 percent. Go to my home district, Boone Central. The potential levy reduction there is 16 percent. Go to Sandhills School District. The potential levy reduction there is zero. So let's turn the page and go over to OPS that's getting the lion's share of state aid to begin with, and their potential levy reduction from this bill is 41 percent. They're getting the lion's share of state aid and we're going to throw some more at them to the exclusion of the small, rural, unequalized districts that I represent and other rural senators represent. So I have a problem with that aspect of it as well. And finally, I haven't heard about a mechanism to fund this bill. And to propose something like this without a funding mechanism, I can't support that. The efforts I've been involved in in the past, I think we've always tried to provide a funding mechanism, typically an expansion of or a modernization of sales tax base. But here we have no funding mechanism. The only thing I've heard about an effort to fund this bill is to access a fund, the LB1107 refundable income tax credit that currently provides guaranteed direct property tax relief to every Nebraska property taxpayer. And to me, it's completely unacceptable to even consider accessing that tax relief, directing property tax

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relief, funneling it back through education with the hope that it will yield tax relief for our taxpayers. So those are my-- as far as the other details, I need to study it more. And again, I appreciate Senator Walz's work on this and respect her judgments here and her wisdom in doing this. And Senator Lindstrom, I appreciate what he's done. But, but I reserve judgment on other aspects of the bill. But to start with, those are my three concerns: a mechanism to ensure a property tax relief, the disparity in the results, and the lack of a funding source. And so those are all issues that I don't think we can overcome. But I wanted to lay those out there to begin with and let you know my concerns. And with that, I will withdraw my floor amendment and thank you, Mr. President.

FOLEY: The amendment is withdrawn. Thank you, Senator Briese. Mr. Clerk.

CLERK: Mr. President, thank you, Senator Briese. The next amendment I have to the bill is Senator Walz-- or to the committee amendments, I should say-- Senator Walz, I have AM1766. I understand you wish to withdraw and substitute FA71.

FOLEY: Without objection, so ordered. We'll take up FA71. Senator Walz.

WALZ: Thank you, Mr. President. This amendment simply removes the 20 percent foundation fund-- 20 percent of basic funding. Thank you.

FOLEY: Does that conclude your remarks, Senator Walz?

WALZ: Yes.

FOLEY: Thank you, Senator Walz. A long list of senators in the speaking queue. We'll move to Senator Slama.

SLAMA: Thank you, Mr. President, and good morning, colleagues. So I stand here today interested about the different amendments going in and out. I'm not even sure that floor amendment to AM1756 is on the board yet, but I stand here in consideration of LB890. I think Senator Walz and I share some common ground in that regardless of whether a kid is sitting in a rural classroom or an urban classroom, they should be valued and treated the same in our state funding formula. I do have a lot of questions about this bill because it's very complex, first off, and it gets to some points with TEEOSA that have traditionally been pain points with me in terms of a lack of funding for all school districts. I want to make sure that every school district is whole as

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a result of LB890. So would Senator Walz be willing to yield for specific questions?

FOLEY: Senator Walz, will you yield, please? Is Senator Walz on the floor? She stepped out apparently, Senator Slama.

SLAMA: Well, that's I mean, I mean, I hope she's-- can hear this and is on her way back because I have concerns about keeping our school districts whole. I know in the initial release it was shared that four school districts would stand to lose funding. One of those, Lewiston School District, is in my district in Pawnee County, and I don't want to see them or any other school district in this state lose funding from a bill that intends to grant more funding to schools across the board. So that was my first question that I was going to ask was what's the story on those four school districts that stand to lose funding? Is there any mechanism in place to help them? I'm also very concerned about the funding mechanism for this bill because we're dealing with a bill in LB890 that, oh, Senator Walz is on the floor. We're dealing with a bill on the floor in LB890 that does not have a funding mechanism because LB891, the funding mechanism for this bill, which I have questions about too, is still in committee. So Senator Walz, I think you're on the floor right now. Would you be willing to yield to a question?

FOLEY: Senator Walz, will you yield?

WALZ: Sure.

SLAMA: So did you happen to hear my question about the four school districts that were originally announced as going to lose funding under this bill?

WALZ: No, I'm sorry.

SLAMA: No. OK. Do any school districts stand to lose some funding under this bill?

WALZ: There are six school districts that will be held harmless.

SLAMA: OK. Can, can you speak to-- I know it was told to me and I was informed at it might have been an earlier stage. There might have been a fix made in AM1756, but that Lewiston Public Schools in my own district would stand to lose funding if LB890 would pass.

WALZ: Lewiston-- there were again six school districts that were held harmless. Out of 244, I think that that's the closest that we, you

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know, have ever come, and I think that that's the closest that we could get with this proposal.

SLAMA: OK. So thank you, Senator Walz.

WALZ: Sure.

SLAMA: We just had a bill that Senator Breise brought where the filibuster was based on some Lincoln senators, some Omaha senators standing up and saying, If this bill hurts a school district in my district that I'm going to stand up here and stand opposed to it and I'm going to talk on it and I'm going to help filibuster it because I don't want to see the school districts in my own district harmed. And the way I'm reading LB890 is Lewiston Public Schools stands to lose money. I haven't heard of a mechanism yet to replace the funding that Lewiston would lose. I'm sure there's a mechanism you could use, but I'm going to take the same approach that those senators used to Senator Briese's bill and say, you know, Lewiston kids have just as much value as those kids in LPS and OPS. So I'm going to stand strong for them. And until someone shows me how this--

FOLEY: Half-minute.

SLAMA: Thank you. Until someone shows me how Lewiston Public Schools will be held whole, because the last time I worked through this, Lewiston Public Schools was standing to lose a few hundred thousand dollars, I'm going to be opposed to this bill and I'm going to talk on it because that's, I think, a really valid question and something this body should consider of, well, do we value kids in Lincoln Public Schools more than we do Lewiston Public Schools? So that's the conclusion of my thoughts on this turn on the mike. Thank you, Mr. President.

FOLEY: Thank you, Senator Slama. Senator Linehan.

LINEHAN: Good morning, Mr. President. I appreciate all the work that's been done on this bill, and I appreciate Senator Walz's efforts and the schools' efforts. But I have-- I have a little pushback on, yes, there were a lot of-- lot of meetings. There were several meetings. I was invited to one. And but the problem is you can have meetings, but if you don't listen to any of the concerns or address the concerns, there's not a lot of value to meetings. There are huge concerns about this bill. The first one, how are you going to pay for it? Which falls on my committee, the Revenue Committee, your committee, your Revenue

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Committee. I, I don't think there was a lot of interaction with the Revenue Committee. Senator Albrecht, would you yield for a question?

FOLEY: Senator Albrecht, would you yield, please?

ALBRECHT: Yes.

LINEHAN: Were you briefed on this proposal?

ALBRECHT: I was invited one time to listen by Senator Walz to the superintendents, yes.

LINEHAN: Did, did you offer any feedback?

ALBRECHT: I did have some questions, yes.

LINEHAN: OK, thank you. But do you recall that we ever sat down with the Education Committee as a whole Revenue Committee and ever discussed this bill?

ALBRECHT: No, we did not.

LINEHAN: Thank you, Senator Albrecht. So the other concern and we're talking about the new fiscal note, we're talking about \$762 million. I think it's no great secret there's only a couple of pots of money where that could come from. It's both the tax prop-- the tax credits on the property. The first tier, you only got 548 in LB1107. So that's not enough to pay for it. So where are they going to go for the second? It is, if you add the 762 on to the \$1.5 billion we already appropriate for public schools, we're up to \$2.3 billion. So I don't know if Senator Stinner is here, but correct me if I'm wrong, Senator Stinner or Senator Clements. According to the budget that was handed out this morning, our actual revenue for 2021, which was, we've been told way over what we should expect the following year, was \$5.9 billion. So we're not at 50 percent of our budget going to this public education, but close. Next year, according to the forecast, we'll be at \$5.3 billion. And this, if I remember, is going to be \$2.2 billion if you add the \$1 billion plus the new spending. So, Senator Clements, are you checking my math because, you know, I screw this up sometimes-- will be 40 percent of our budget, \$2.2 billion will go to public education. So all the concerns we ever have when we have tax cuts to bring to the floor is how can we possibly afford this? I'm like, how can we possibly afford this? And I have other concerns about things that are in the bill that I don't think have been discussed very widely. Senator Walz, would you yield for a question?

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FOLEY: Senator Walz, will you yield, please?

WALZ: Yeah.

LINEHAN: What happens to option funding in this bill?

WALZ: It goes away.

LINEHAN: So what do you tell the 24,000 children who now access option funding so they can choose the public school they would like to go to? How do we address their concerns?

FOLEY: One minute.

WALZ: The-- they can still go. The funding for net option goes away. Net option itself does not go away so they can still go to any school that they want to.

LINEHAN: That the money--

WALZ: That's still--

LINEHAN: The money doesn't follow them. The money doesn't follow them.

WALZ: No.

LINEHAN: So you think--

WALZ: The money follows--

LINEHAN: Thank you, Senator Walz. Thank you, Senator Walz.

WALZ: OK.

LINEHAN: So you think that, I don't know, the-- let's just grab a number, a hundred kids that are going from Beatrice to Lewiston, Lewiston is going to take those hundred kids if they don't get the money that goes with the kids? I don't think so, guys. You're going to [INAUDIBLE] we've got whatever the basic funding is, \$500 then \$1,000 the option, this is going to-- this-- these are kids that are maybe in the fifth or sixth grade. They've been in these schools since they started school. They might even be a freshman in high school, and now we're going to switch up the funding on them substantially. We spend \$100 million--

FOLEY: That's time.

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LINEHAN: --a year on option funding currently.

FOLEY: That's time, Senator.

LINEHAN: Thank you.

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

PANSING BROOKS: Thank you, Mr. Lieutenant Governor. I stand in support of LB890. I am-- I've been here eight years now. This is my eighth year and the amount of work that Senator Walz and the schools did to try to get as many people on board as possible, right now, all the groups are, are supportive. You can all talk about little nuances. We can attack TEEOSA. We could attack-- but there are issues no matter what in every single thing we do. We've got all the groups, NRCSA, that's the Nebraska rural school district association; the GNSA, the Greater School Association; the NASB, the school boards association; the-- every single group is supporting this. And having served eight years on the Education Committee, I understand how overwhelmingly complicated TEEOSA is, how difficult it is to explain to people. And Senator Walz busted her rear end-- that's because I don't swear; that's as far as I go-- to get out there and to take people around and to meet with everybody. And gosh, I'm so sorry that somebody only got asked once. There are 49 of us in here. The fact that you were asked is amazing. She did reach out to people. She did try to meet with people, people on Revenue, people on Education. And maybe it wasn't as many times as you would like or you would have liked it explained more. But isn't that on you, then? Because she did explain it and she did meet with you and you say only once. Well, maybe it's your duty to then go back to her and say, I need a little bit more time. I need to understand what you're saying or go to all these groups and all these experts out in the lobby because they are experts on education funding, and ask them the questions. I am so beyond proud of my friend, Senator Lynne Walz, for her willingness to take on this Herculean effort. We all know and talk about Senator Raikes, former Senator Raikes, who came up with the whole TEEOSA formula and the work that he did and the vision that he had. But we also know it's not working perfectly right now, what, 20-some-- more than 20 years after it was passed. So here is somebody with the gall and the gumption to move forward and to say, here's some ideas. I've worked with all the schools. I'm sorry, Legislature, that she didn't come and meet with each of you for hours on end. But she did meet with all the schools and the school boards and the administrators. You try sitting in, in the Education Committee and having any bill that brings all of those groups together. This is a monumental bill. It's a monumental effort.

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And you may disagree with certain little parts of it and certain parts that are costing somebody different dollars. But when you have all of these groups come together, it's remarkable. And we are making sausage. There is no question. Is it perfect? It is not perfect. And there were also three of the people from Revenue that were on the committee. So that, that's another important fact-- factor.

FOLEY: One minute.

PANSING BROOKS: I just-- and I'm hoping at some point, Senator-- I was going to give Senator Lindstrom some time for him to explain. Can you take some time? OK, I'm going to pass my time to Senator Lindstrom.

FOLEY: 45 seconds, Senator Lindstrom.

LINDSTROM: I'll try to do my best. Two buckets of money that we're talking about here is the four-- \$548 million dollars out of the LB1107 funds. The other one is a half-cent sales tax matched, that would get us into the ESBA Trust Fund that facilitates the mechanism to provide equalization aid to-- at the end of it, 244 school districts. We hold harmless 29, 6, and then 2 over the course of three years. And this is a direct shot into lowering the levies, both in the general levy fund, which is the \$1.05 down to \$0.95, and within sight of TEEOSA, going from \$0.85 down to \$0.75. So it's a direct shot of a property tax relief. It is not a one-and-done. This is an ongoing process where we started, on average, 20 percent. And the intent, in my opinion, is to eclipse the LB1107 funds over time. But we have to set the foundation to do that. It creates equalization-- creates--

FOLEY: That's time.

LINDSTROM: --a fairness issue.

FOLEY: Thanks, Senator Lindstrom. Senator Albrecht.

ALBRECHT: Thank you, President Foley. OK. So yes, I had one visit with this group to explain what they were doing. And Senator Pansing Brooks, there may very well have been three people on that committee that listened in, but they certainly didn't come back to us in the Revenue Committee and explain anything. We sat through all of the financial part of it. And my major concern, and I'll certainly listen to this where-- you know, I'm just happy that somebody is wanting to do something about this, but we all have to be fully engaged in how we are going to fund it. So my big concern is when OPS came up as a no. They don't want the money. So what do we do with that money? Do we take that money and give it to the unequalized schools in the six

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schools that don't need-- or that don't qualify for this program for whatever reason? So we have some work to do, and I'm happy to work with people. But you don't need to call me out that I only got to talk to people one time. That was a question asked by Senator Linehan to me. And it, it's true. I heard one time about this. But I'm here to tell you, when you have something this complicated, this historic-- are we enhancing TEEOSA for, for the larger schools that are going to continue to get money? I could have taken 12 to 13 million back to my community a year ago, but the superintendents were the very people that fought against it. So now they've got it all figured out on how it needs to be handled. But I want to know, did-- I want to know about OPS. Senator Walz, would you yield to a question?

FOLEY: Senator Walz, would you yield please?

WALZ: Yes.

ALBRECHT: Are they on board now?

WALZ: I would not say that they are on board.

ALBRECHT: And why would they not be?

WALZ: That is a question that you could ask OPS actually. I don't know.

ALBRECHT: Well and, and I have in our committee, in the Revenue Committee. They don't need it. They don't want it. I mean, for the largest school-- I don't know if they're bigger than Lincoln. I would think that they are. But how could the largest school say no, no thanks? OK, so what are we going to do with that money, Senator Lindstrom? Do we take that and give it to the smaller schools? You know, I mean, this is very complicated and we will be having a major discussion and everyone that sits in their chair ought to be asking questions. I'm going to have to blow up these charts a little bit so I can see them and read them. But I'm here to tell you everybody isn't always going to benefit by a proposal of this magnitude. And we do have to make sure that every child has the education that they deserve with the funding with tax dollars. I'm not willing to give up property tax dollars. We just gave it to the people. Now they want it back. They-- oh no, you can't take 25.3 percent of your property and give it back to the property taxpayer. They want that money. You know what? Maybe we need to scale back and decide that all these, all these different mandates that we've given schools, maybe it's time to pull them back. Maybe it's time to go back to the basics of education.

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Maybe it's time to go back to reading, writing, arithmetic. I mean, everybody has to have good scores. And are we, are we doing that? I think we really need to take a look at what we want to do with what we have. I noticed that all of our farmers, all the farming groups, came in neutral. Does that mean a yes, or does that mean a no? I want to find out. So I don't, I don't know, Lynne-- Senator Walz, I think you did an yeoman's job in getting this to the floor, but we all have to be able to buy into it, and it should pass by 49. If it's that great of a deal, we should all be on board. But if we have reservations, there's a reason--

FOLEY: One minute.

ALBRECHT: --that we do. And I just want to take a step back and do what we need to do to make certain that this is the bill that needs to go forward. Because I said last year, when all of those superintendents and all the schools were coming and school boards, give us something that we can work with. But knowing that our revenue department, I mean the Revenue Committee, we-- right now in our Revenue Committee, we're working on corporate taxes. We're working on income tax so that we can be competitive with all the states around us. But now we have something like this that is a complete, to me, surprise, on what they want to do and how they want the money funded to them. But it doesn't cover everyone. And one of the largest schools doesn't want to participate. I mean, help me understand that. But I feel like, you know, we're on the right track to starting to do something with TEEOSA. Six years ago, when I came here, the 18 of us that came in said, you know what? We need to have a group of people just working on TEEOSA. You know, I'm all--

FOLEY: That's time, Senator.

ALBRECHT: Thank you.

FOLEY: Thank you, Senator Albrecht. Senator Day.

DAY: Thank you, Mr. President. And good morning, almost good afternoon, colleagues. I just have a couple of things I want to mention, and then I would like to yield the rest of my time to Senator Lindstrom so we can hear more about the funding mechanism for this bill. The first thing that I wanted to mention, though, was the idea that the Revenue Committee was not invited more than once, or people on the Revenue Committee were not invited to understand or to, to look over this proposal. And I guess as a member of the Education Committee for now my second session, I have never been invited by the Revenue

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Committee to hear any of the proposals that would affect education. We have several property tax bills that have been introduced in the last two sessions and over the last several sessions that would affect funding for education. But I don't think the Education Committee has ever been invited to sit down with the Revenue Committee on any of those proposals either. So I just wanted to mention that I, I was-- I'm overwhelmed and excited about this proposal. This is what we have been talking about for years. It's what I heard about for years before I was even elected to be a member of this body, was the fact that property taxes being directly tied to how we fund public education is extremely problematic. And we finally have an opportunity to solve that problem here with this proposal. And so again, I know that it's a very complicated thing. But the fact that Senator Walz and again, Senator Lindstrom, have been working so hard on this and brought everyone to the table, I think is something that we have to recognize. Stakeholders from education, stakeholders in the ag community-- everyone was involved in this discussion. And, you know, again, when it comes to being able to, to discuss these proposals, that's what we're doing right now. I mean, that's, that's the whole reason we wanted to get this to the floor was so that we could discuss it and get opinions from everyone in different districts on, you know, their concerns and those types of things. So what I did also want to mention-- the-- Senator Slama had brought up Lewiston, who is in her district, and I appreciate her standing up for the districts that she's concerned about-- that are in her district because I feel the same way about mine. As I understand it, the hold harmless clause means that there is a mechanism to provide additional funding to make up for the loss of funding in those six school districts. So at the end of all of it, there would be no actual loss of funding for those six school districts that are held harmless. In addition to that, I believe that there's an amendment that is being discussed to add an additional 5 percent into those districts. So if that's a concern, I know that Senator Walz is happy to discuss those things with you. So I would, I would encourage you to talk to her about that. And so I, I did want to mention one of the reasons that I really support this bill. Again, we understand how problematic it is to have school funding tied to property taxes. This works on solving that problem. I have struggled with a lot of the property tax proposals in this body because they are only a band-aid, and don't actually solve the problem. They, they work to alleviate a symptom of the problem, which is how we fund schools. This is a proposal that would actually solve the issue, the underlying issue of why property taxes are so high. And when we talk about using LB1107 and how inappropriate that is-- this, this proposal actually provides more significant property tax relief

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than LB1107 does. In some areas in my district, District 49, it's upwards of 30 to 40 percent. And over the three districts that are in District 49-- Gretna, Millard, and Papillion-La Vista-- you're looking at an additional \$89 million in property tax relief. So this is not just an education funding bill. This is a property tax relief bill as well. So how much time do I have left, Mr. President?

FOLEY: 1:05.

DAY: OK, thank you. I would yield the rest of my short amount of time to Senator Lindstrom.

FOLEY: Thank you, Senator Day. Senator Lindstrom, one minute.

LINDSTROM: Thank you. I'll try to make it quick. I'll just address-- we're going to be down on this for eight hours, so we'll have plenty of time to talk about it. A couple of things on the OPS side-- yeah, they're, they're not going to be in support of this. They have the most students. They get the most amount of money. It's not-- this is, this is a bigger proposal to make sure that the 244 school districts in the state of Nebraska-- it's a fairness issue. When you have 86 that get equal, equalization aid, 158 that don't, and all their sales and income tax dollars are going to the state and never returning, you can see why people are upset. We have put in this proposal that-- to hold harmless the school districts. And I would suspect that the vast majority of people in here, with the exception of maybe one senator, in the final one year, all your school districts are going to get more equalization aid. They're not going to back up. So you can talk to those school districts about that and see if they, if they do want that. As it pertains to the overall tax policy, the mechanisms in here with the two different buckets or two funding funding mechanisms--

FOLEY: That's time.

LINDSTROM: --LB1107 funds--

FOLEY: That's time. Thank you, Senator Lindstrom. Senator Briese.

BRIESE: Thank you, Mr. President. Senator Pansing Brooks said something earlier that I, I really do agree with, when she was talking about the proposal and proposals for education funding reform. There's issues with all of them. You know, it's very, very difficult to come up with the perfect solution. And Senator Pansing Brooks, I agree with you there and certainly admit to that. Perfection is-- keeping everybody happy, everybody whole is very hard to do. But I do think we need to try our best to treat districts and taxpayers as fairly as we

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can, and to provide a similar amount of state aid when we're doling out state aid through a school funding proposal. I think we need to try to ensure that we are treating folks somewhat fairly, and that kind of brings me back to the percentages I saw there earlier. Lincoln, according to that data, would have the potential for a 27 percent decrease in their levy. And again, you compare that to Sandhills sitting they're at zero. And to me, that's not very equitable, I don't think. And someone else said that, you know, this is a property tax relief bill, but that takes me back to my first concern with it, my first objection to it. Does it have a mechanism in it sufficient to ensure these dollars yield property tax relief? And Senator Walz hit upon it, I think, when she spoke in her opening. And as I look at-- I'm trying to figure it out here-- we look on page 27. You look to page, excuse me, Section 16 and 17-- page 27 tells us the maximum levy is the general fund tax asking. A-- line 12 and 13 of that same page says a general fund tax asking is equal to the state and local spending authority found in Section 16. So you go to Section 16-- the state, state and local spending authority equals, quote, budget authority for the general fund budget of expenditures, unquote, found in 79-1023 plus the exclusions. And so, number one, we're adding back the exclusions here, and I think that's troubling. That, that creates some wiggle room there. A haziness that to me is troubling anyway. If we're looking for a cap that ensure, that ensures and shields property tax relief, I'm concerned about the exclusions. And 79-1023 also tells us that the general fund budget of expenditures is the greater of three different formulas. And so when we're talking about the greater of three different formulas, there's quite a bit of wiggle room there also. And so I'm not going to ask Senator Walz about that, but if she has a chance and would like to address that issue on the mike sometime, I'd certainly appreciate that, to try to assure me that this is built so that those dollars we-- will yield property tax relief. And I don't think the way it's currently structured, it is not guaranteed to do so. So anyway, with that, I would like to yield the rest of my time to Senator Linehan. Thank you.

FOLEY: Thank you, Senator Briese. Senator Linehan, 2:00.

LINEHAN: Thank you, Mr. President. Thank you, Senator Briese. So I have a-- I do have a question for Senator Walz.

FOLEY: Senator Walz, would you yield please?

WALZ: Yes.

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LINEHAN: So I think I heard, I, if I understand Senator Lindstrom right, to pay for this, you not only take all the LB1107 property tax credit-- which people are just discovering right now because they're doing their income taxes. You take all that money, plus a half-cent of the sales tax.

WALZ: Correct.

LINEHAN: What do--were-- what are we going to-- a half-cent of the sales tax that we're using now for other things, right? And we weren't-- you're not increasing sales tax.

WALZ: No, we're not increasing sales tax.

LINEHAN: But we're going to take a half-cent, a half-cent of the current sales tax, and we're going to pay this bill. So what, what are we taking that half-cent of sales tax away from?

WALZ: I think that that is part of using the LB1107. Is that what your question--

LINEHAN: No. This is in addition to LB1107. So you're saying we're going to take a half-cent of our current sales tax to help pay for this bill? So what are we going to not spend that half-cent of sales tax on?

WALZ: I don't know, Senator Linehan. I don't know the answer to that.

LINEHAN: Well, I think that's pretty important. I mean, we've heard on-- from the Appropriations Committee this morning that we need to increase provider rates. We've got, I'm sure I don't know how many millions of requests into the Appropriations Committee, plus other bills where we don't have money. And yet we're going to somehow magically pay for everything we're already paying for in the budget, but use-- set aside a half-cent of sales tax.

WALZ: Correct.

LINEHAN: Thank you, Senator Walz. I find that very concerning, and I have since I first heard this bill. So again, basics of this bill, it's on top of the \$1.5 billion we already spend on public education. It's 20 percent of income taxes back to every school district.

FOLEY: That's time, Senator.

LINEHAN: Thank you.

FOLEY: Thank you, Senator Linehan. Senator Friesen.

FRIESEN: Thank you, Mr. President. So I've been looking forward to this conversation for the whole session, and this is going to be enjoyable. I'm, I'm one of those too. I was briefed on this bill probably at least three or four times. And I do appreciate that finally, finally after eight years, the schools came with a proposal. I do appreciate that. But when we sent them some recognition, or recommendations for changes, they didn't even respond back that we had sent anything. And so when I brought it up at the next briefing, they said they would look into it. And then finally, at that point, they did put in a component that, I understand it now, is going to be pulled back out. The only thing in the bill that I really liked will be removed. So all the years that I have tried to work on things-- and any time we repurpose any fund, you're always going to have winners and losers. But the analysis that we've done currently shows that 125 school districts will end up with a net loss, and that happens because you take LB1107 money. It's just the way the formula works. It's always been that way. Every time I've tried to do something, I always harm someone somewhere else. There isn't a good way of redistributing that money yet. And in the past, I always joked, you know, if I ever get a billion dollars raised, we can finally talk about the TEEOSA formula. Well, we're getting close. You know, we've, we've got a lot set aside, and I think we actually could have a good conversation about the TEEOSA formula. I really do. I think there is a path. But this isn't going to be it unless there's some major changes done to it. And so as we go along, I'm going to start going through those different sections and we'll talk about that. We're going to talk about valuations and how ag property values have still largely exceeded anything even this hot residential market has done. And yet I know urban taxpayers are mad. Their valuations are shooting up, but they haven't even come close, not even close to what's happened to ag, and we have not addressed a single thing there yet. So I do have some amendments added to this already, and we're going-- hopefully we can talk about them. And if we spend enough time on this bill and adopt enough amendments, this might be the path forward. I don't care, but we've got a long ways to go. My goal has always been-- we have schools who receive roughly a half a percent of their budget from the state. And we have other schools receiving 56, 58 percent of their budget from the state. There's schools who receive more in state aid than they collect in property taxes and yet, I can't get funding out to these nonequalized schools. Year after year, that's been my target and no one-- OPS, LPS has always been opposed to every bill I've brought because they don't care about the kids in rural Nebraska. They want to

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protect their butt. They're protecting their funding. They want the status quo to stay in place. Don't touch it, unless of course you want to give me more money. And so I do appreciate the fact that OPS came in in opposition to this bill. At least they're consistent. They're not hypocrites like the rest of them. But when you're offering to give somebody a \$111 million more, and then you're going to take my nonequalized schools out there, and at best they'll break even or 125 of them will lose money--

FOLEY: One minute.

FRIESEN: --I'm not taking this very seriously. So I want to talk about a lot of different things and components coming up in the days ahead because I'm going to be willing to spend eight hours on this for sure. And we're going to talk about a lot of things that have affected our TEEOSA formula over the years and why, in rural Nebraska, we're so angry. So I-- again, I appreciate Senator Walz for doing this. I appreciate the schools. I really do. But I wish they would have listened to some of our suggestions. They did not and so now we're going to have a long conversation. Thank you, Mr. President.

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

M. HANSEN: Thank you, Mr. President. I'll yield my time to Senator Lindstrom.

FOLEY: Senator Lindstrom, five minutes.

LINDSTROM: Thank you. So a couple things here. I had to step out so I didn't catch all of Senator Friesen's comments. But I think-- just to tie a lot--some of this together here, the, the half-cent sales tax-- again, this is a, this is a component to me as it fits into the overall bigger tax picture and puzzle. When we talk about even income tax reductions, that still goes to the general fund. When we talk about sales tax reductions, that goes to the general fund. There's an element of this that deals with our-- controlling spending. It's what has allowed us to have the \$400 million above forecasting to talk about these things; no different than what we're doing with the half-cent sales tax. It's just money that we're dedicating to the purpose of cutting property tax by reducing the levies and limits there, and facilitating that, that funding mechanism. The other part of that is it goes into the trust fund. That's one of the biggest things that, sitting through years of testimony, is that lack of trust between the school districts and the Legislature. Will the Legislature uphold their end of the bargain to meet the needs for K-12 education?

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That's why we, we dedicated the specific trust fund, and that's why we're utilizing a half-cent sales tax. So it's up to the Legislature to control the spending, the Appropriations Committee, to the level to meet the needs of the state. But we're redirecting the sales tax dollars specifically to meet education. To me, that's a fairness issue. That is, I think the vast majority of Nebraskans prefer the sales tax versus being penalized for working on the income tax side or being penalized for owning property. And the fact of the matter is a lot of the proposals that are out there probably don't have 33 votes. This, to me, is probably the closest that we've had in a number of years to get to the 33 votes. Is it perfect? No, but we have to set the stage and create that foundation to build off of. Does it have the same percentage that the LB1107 funds have currently? No, but it, it, it is my intent to continue, or the future legislatures, to continue to work to meet that need and do it. As brought up with OPS and \$111 million, I don't think a lot of senators are going to support pulling OPS out of this because they're going to lose two different avenues of property tax relief, one on LB1107 because we take the \$548 million. And if they're out of the TEEOSA reduction, they're not, they're not going to get a, a reduction in property tax either. So I, I get that we're going to talk about that, but that's, that's not reality. When you have OPS-- OPS is, is-- again I know they're in the, out there and I'm not trying to throw them under the bus. But they're, they're-- they have the, the most amount of students, the most needs-- they get the most amount of money. So they're going to be very reluctant to relinquish some of that. Again, it goes back to the trust issue. There are school districts out there that are not receiving anything. I think this is a good step forward to moving towards the urban and rural divide. Again, going back to what I said in the original mechanism with five hun-- 58 school districts that, or excuse me, 86 school districts that receive equalization aid, there's 158 that don't. And this is-- when, when we talk about the LB1107 funds, I get that it's, it's seen as a, as a property tax reduction, but it is an income tax credit. And it's an income tax credit that, unless you have a tax professional to assist you in that, not everybody utilizes that. I'm not saying it's a bad idea. I'm not saying it was the best thing that we could have done under the circumstances. I just don't know if it's the long term, if it's sustainable in actually addressing doing what we need to do when it comes to education funding and cutting property tax. Sixty to 70 percent of your property taxes go to K-12 education. That's why we are directing, specifically in this bill, to deal with the TEEOSA formula and with the local effort rate. We're taking, we're just dealing with the needs side. We're not dealing with

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the resources, we're dealing with the needs side. And by doing this, equalizing all the school districts.

FOLEY: One minute.

LINDSTROM: And we, we have to build into this. This is not going to be something that we can do overnight. And I think-- oftentimes down here in the eight years I've, I've witnessed-- it's-- we seem to have this mindset that it has to be a one-and-done, and it can't be an actual long-term vision, a proposal to actually get to the heart of the actual issue. This is one of those things. It is extremely complicated. If someone has a better idea, fantastic. But I know that in testimony that there-- the individual from Chadron said that in 28 years, she's never seen GNSA, NRCSA, or STANCE schools all come in in support, school board all come in support. The, the ag community, yeah, they were not in favor of LB891. They did come in in neutral in LB890. LB891 does disrupt the income tax credit on LB1107 funds. I'm not saying that's a bad thing. But I think if we're going to target direct property tax long-term that also equalizes school districts, all of them, and go from 49th in the country to 20th or 19th, this is a proposal that I feel we could get closer to 33 than we can in any other proposals that are out there. Thank you, Mr. President.

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

CLERK: Mr. President. New A bill, LB925A by Senator Gragert. It appropriates funds to implement the provisions of LB925. Hearing notices from Revenue Committee, and Natural Resources and Urban Affairs Committees. Enrollment and Review reports LB592, LB754, LB758, LB892, and LB708 to Select File. Senator Gragert, an amendment to be printed to LB925. Announcement: the Government Committee will have an Executive Session today following their hearing in Room 1507. Government following their hearing. Name adds: Senator Deboer to LB914; Senator Vargas to LB1024. Senator Aguilar would move to adjourn the body until Thursday, February 10 at 9:00 a.m.

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