

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

Floor Debate  
May 04, 2017

---

[LB20 LB44 LB63 LB138 LB142 LB149 LB154 LB159 LB171 LB176 LB231 LB234 LB239  
LB241 LB255 LB255A LB259A LB264 LB289 LB306 LB315 LB327 LB328 LB329 LB330  
LB331 LB332 LB338 LB383 LB409 LB430 LB447 LB451 LB455 LB461 LB464 LB478  
LB512 LB519 LB558 LB564 LB578 LB578A LB602 LB632 LB640 LB645 LB647 LB647A  
LR127 LR128 LR129]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the seventy-sixth day of the One Hundred Fifth Legislature, First Session. Our chaplain for today is Pastor Gretchen Ritola, St. Luke and St. Paul's Lutheran Churches in Emerson, Nebraska, Senator Albrecht's district. Please rise.

PASTOR RITOLA: (Prayer offered.)

PRESIDENT FOLEY: Thank you, Pastor Ritola. I call to order the seventy-sixth day of the One Hundred Fifth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

PRESIDENT FOLEY: Thank you, Mr. Clerk. Any corrections for the Journal?

CLERK: I have no corrections.

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

CLERK: Mr. President, I have neither messages, reports, or announcements at this time.

PRESIDENT FOLEY: Thank you, Mr. Clerk. (Visitors introduced.) Members, we'll move right to the agenda. Select File budget bills. Mr. Clerk.

CLERK: Mr. President, the first bill this morning is LB331. I do have Enrollment and Review amendments. (ER85, Legislative Journal page 1299.) [LB331]

PRESIDENT FOLEY: Senator Ebke. [LB331]

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

Floor Debate  
May 04, 2017

---

SENATOR EBKE: Mr. President, I would move the adoption of E&R amendment to Select File...the adoption of the E&R amendments. [LB331]

PRESIDENT FOLEY: Members, you've heard the motion to adopt the E&R amendments to LB331. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB331]

CLERK: Mr. President, Senator Stinner had filed AM484. That's to be withdrawn. Is that right, Senator? [LB331]

SENATOR STINNER: Yes, it is. Yes. [LB331]

CLERK: Thank you. Senator Stinner would move to amend with AM1285. (Legislative Journal pages 1327-1329.) [LB331]

PRESIDENT FOLEY: Senator Stinner, you're recognized to open on AM1285. [LB331]

SENATOR STINNER: Thank you, Mr. President. And members of the Legislature, AM1285 is a technical fix to LB331. It should be noted that this amendment is applied to the E&R amendment, not the committee amendment as usual. Under AM1285, a number of technical errors with committee amendment, AM594, would be revised. It corrects a number of transfers which were supposed to be included in the original committee amendment, but was left out. Thank you, Mr. President. [LB331]

PRESIDENT FOLEY: Thank you, Senator Stinner. Debate is now open on AM1285 and the bill. Seeing no one wishing to speak, Senator Stinner you're recognized to close. He waives closing. The question before the body is the adoption of AM1285. Those in favor vote aye; those opposed vote nay. Members, have you all voted, please? [LB331]

SENATOR STINNER: House, please. [LB331]

PRESIDENT FOLEY: There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; those opposed vote nay. Record please. [LB331]

CLERK: 28 ayes, 1 nay to place the house under call. [LB331]

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

Floor Debate  
May 04, 2017

---

PRESIDENT FOLEY: Members, the house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Kolowski, will you check in? Senator Groene, please check in. Senator Larson, check in, please. Senator Stinner, we're lacking Senator Quick. Would you like to proceed without him? [LB331]

SENATOR STINNER: I will allow call-ins as well, please. [LB331]

PRESIDENT FOLEY: Yes, call-in votes are accepted. We will proceed. [LB331]

CLERK: (Roll call vote taken.) 26 ayes, 3 nays on adoption of Senator Stinner's amendment. [LB331]

PRESIDENT FOLEY: AM1285 is adopted. I raise the call. [LB331]

CLERK: Mr. President, Senator Stinner would move to amend the bill with AM1278. (Legislative Journal pages 1329-1330.) [LB331]

PRESIDENT FOLEY: Senator Stinner, you're recognized to open on AM1278. [LB331]

SENATOR STINNER: Thank you, Mr. President. Members of the Legislature, AM1278 includes the substantive items of LB331. The first item is my proposal to lower the reserve requirement to 2.5 percent for the cash reserve fund. The second is to lower the transfer to the Water Sustainability Fund as part of fixing the budget deficit and it should be noted that that is interest that is earned on the fund and has yet to be appropriated. In regards to the reserve requirement, the amendment would change the ending balance reserve requirement that the Legislature must observe when building a General Fund budget during the legislative session. The minimum reserve would be lowered to 2.5 percent, freeing up \$43 million in General Funds. And I have passed out and I will go to the handout that we have, the exhibit. And what I want to demonstrate on the exhibit is these were the actions of the Appropriations Committee. And I want to emphasize that we had the Governor's proposal. We talked about each one of the items. Everybody on that committee was given an opportunity to propose a cut or an amendment or whatever. This is the final cut and final recommendation for solving \$55 million shortfall. And as you can see, there is about \$10,792,000 of additional cuts. That leaves you \$39 million short. Okay? So we have a gap here. How do we solve that gap? Well, one of them is to take it out of the rainy day fund. I wasn't really for that idea simply because the only way you have a repayment program in the rainy day fund is by forecasting error. So I chose to look at 2.5 percent, lowering the minimum cash reserve to 2.5 percent because after two years, you have to

Floor Debate  
May 04, 2017

---

repay it. You have to bring that cash reserve back up to 3 percent. And anybody that says that that puts us in financial jeopardy has to understand you've got a savings account called a rainy day fund over \$300 million backstopping your checking account. We have not, and I repeat, have not by this action put us in jeopardy of not paying our bills or default. What this does, though, is add discipline, financial and fiscal discipline to this process. I think it's the best way to do this. The other thing I think that will be talked about, well, this sets a really bad precedent and we have never done this before. I will tell you and I'm going to read it, the percentage threshold was first set in 1969, 1969 at 5 percent and it applied to the State Board of Equalization as they set tax rates at that time. Nineteen seventy-five, Special Session. There was a specific exception for 1976. They lowered it to 2 percent, and not more than 3 percent. In 1976, it was changed to 5 percent, not less than 3 percent, no more than 7 percent. 1982, 3 percent which changed to 2 percent minimum. Nineteen eighty-three it was changed back to 3 percent and was applied to the Legislature as the Board of Equalization would no longer set rates. Why did we start a rainy day fund? Well, somebody decided that we needed to have a backstop for our checking account. That was the initial intent of the rainy day fund. And, of course, as it built over the years, it became a buffer for us for the economic turmoil that we are experiencing right now. There is a precedent, folks. We're going to use that as a basis of providing a balanced budget. We're not going to rely on a forecasting year. Let's summarize. Let's just step back and summarize some of the things that we've done in this budget from the Appropriations Committee side. We had a \$1.1 billion deficit that we had to solve. How did we solve it? Seven hundred million dollars in cuts, two hundred million dollars of transfers, and one hundred seventy million dollars from the rainy day fund. And, oh, by the way, we offered property tax relief, \$40 million. Never touched it. So we solved it, and I was only given a half a toolbox, I didn't have any revenue to do this with. This had to be done with cuts, this had to be done with imagination, this had to be done with the rainy day fund. I'm asking you to pass this bill because I think it's the right thing to do. But those people that are looking at and saying, oh my God, we're going to have to come back for a Special Session. You know what? If we do, this list that I have in my hand called Major Tax Changes 2006-2016 is coming out. It's coming out and we're going to take a look at it. We already have 2016 tax changes coming on right now, \$61 million that's coming on right now. This is by our hand and people that say we haven't done tax reform, oh yeah, we have. But I think Senator Groene has--and I've heard him say this--this is crony capitalism. We've had specific tax cuts, specific exemptions to certain people. We need to take a look at this list, folks. You know what it adds up to? Eight hundred sixteen million dollars. That's one year. We're dealing with a biennium. Let's see if we changed that, it would be \$1.6 billion in a biennium. What are we short? \$1.1 billion. That's \$1.6 billion on this list. We'd better wake up. We put some things in place that we need to evaluate. We owe it to the state of Nebraska. We owe it to everybody working for the state. Take a step back. Take a breath. Take a look at what we've done here. We're recommending a lowering of the minimum amount required for a two-year period of time, the discipline is in place, we got to pay it back, the precedence is in place, they did pay it back, and we have this list of \$1.6 billion that we can go back and reevaluate if we have to come back

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

Floor Debate  
May 04, 2017

---

here. Folks, we just have to take a step back and say, we did...we did preserve property tax relief. We did put a precedent or priority on prisons, justice reinvestment. We kept that in place. We kept our commitment for K-12. We kept that commitment. And we still solved the problem. The \$1.1 billion problem, we solved it. This budget is a good budget. It's recommended by the Appropriations Committee. It's a good budget. Is it a budget that I would do myself? Well, there might be a little difference. We have to work with each other. We have to talk to each other, not around each other. Not this political rhetoric that I hear all the time. Let's be problem solvers. That's what I came here to do, solve problems. Did you? Think about it. This is a good bill. This is a good approach. It's a sound approach. I can defend it. And if you're talking about coming back for a Special Session or if you're talking about just sticking around all summer, well, let me tell you something, boys and girls. I'm leaving June 1. You're going to have to get the State Patrol to get me back here. But if we have to, we have to. Be problem solvers. Don't be part of the problem. Thank you, Mr. President. [LB331]

PRESIDENT FOLEY: Thank you, Senator Stinner. Debate is now open on AM1278 and the bill. Senator Friesen. [LB331]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. I'm just going to kind of continue on maybe where I left off last night. It always seems I get a little bit more energized when it gets dark, so I'm going to be a little slow this morning, but I'm kind of taking advice from Senator Chambers. He says if you really believe in something, am passionate in it, you just keep doing it and just keep coming back. I'm a slow learner, and I know I won't be really good at it yet, but I'm practicing and we'll get there eventually. And I'm just going to keep talking about the property tax relief and I know we've kind of nibbled around the edges with this budget. We've increased aid for TEEOSA which still does nothing for about 150, 160 school districts. So we've done zero there. We put a little bit into the Property Tax Credit Relief Fund (sic--Property tax Credit Cash Fund), but even with all those funds, my property taxes have still been going up at 18 percent a year. This year they're going to hold their own for the first time ever. There might be a shade bit of a drop there, but I'm not sure. I can't really measure it. There might be a dollar or two in my total check I write. So in the first year...and first time in ten years that my property taxes will hold their own and they're still too high. When you look at the numbers between property tax, sales tax and income tax, property taxes are still top of the chart by a long ways. We've got a long ways to go there. And again when I'm talking about property taxes, I always refer back to K-12 funding. I'm still...I'm not really complaining about what my county charges me. Those services rendered is what I pay for. Property taxes should be levied commensurate to the services that property receives. And so I'm fine with the county tax. I'm okay with my NRD tax, the historical society, all those I'm...local control and it's local issues and it's locally funded. But when it comes to K-12 education, we have depended too heavily on property taxes now and I think it's happened in the ag community and it's also happening in the urban areas now. We're going to see a spike maybe in the housing market like we saw in the land market. Finally, land

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

Floor Debate  
May 04, 2017

---

valuations will be trending downward slowly. They are not moving fast, but they have trended down. And we're going to see the housing market take a good spike. And now we're seeing the urban citizens starting to raise Cain about their property taxes. We've been living this for ten years. I don't have a lot of sympathy yet, but I do want to fix everyone's property tax. I am not focusing on the shift that has happened to agriculture. We're not even going to talk about that yet. Although most of that shift in the past years, this has happened to agriculture. When you look at what the TEEOSA formula in the budget, that nine hundred and some million dollars. If ag land values would have risen at a historic rate of five and a half percent, which would be their historic average, TEEOSA would be required to come up with \$166 million this year. That is being paid by agriculture. And we're not even dealing with the shift that has happened there. That's not part of this conversation. Whenever we've talked about property tax relief, it's been to everyone, the urban homeowners, the commercial industries, agriculture. So we've not focused on what really has happened, we're just trying to get how we fund K-12 back into perspective. And if we could bring property tax equation on how we fund K-12... [LB331]

PRESIDENT FOLEY: One minute. [LB331]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. If we could bring that down to that 35, 40 percent of how a school district is funded and the rest would be through state aid, it would indirectly help agriculture quite a bit. But it still doesn't take care of that shift. So I'm going to continue to talk about this. And we're going to have some opportunities I think yet coming forward to deal with this, and I hope everyone is looking at the bigger picture. Thank you, Mr. Lieutenant Governor. [LB331]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Briese. [LB331]

SENATOR BRIESE: Thank you, Mr. President, and good morning, colleagues. I want to thank Senator Stinner and members of the Appropriations Committee for their hard work on these tough issues. But I rise today out of concerns about AM1278. According to Section 27-1501 of the Nebraska Revised Statutes, the purpose of the minimum reserve requirement is to, quote, ensure that there shall be maintained in the State Treasury an adequate General Fund balance considering cash flow to meet the appropriations and express obligations of the state, unquote. Senator Stinner, would you yield to a question? [LB331]

PRESIDENT FOLEY: Senator Stinner, would you yield, please? [LB331]

SENATOR STINNER: Yes, I will. [LB331]

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

Floor Debate  
May 04, 2017

---

SENATOR BRIESE: Thank you. Are you confident that the 2.5 percent requirement proposed in AM1278 will allow us to meet this statutory mandate? [LB331]

SENATOR STINNER: Yes. And thank you for that question. I have in my hand three years of cash flows to the state of Nebraska. So I've looked at that. We've got a prospective cash flow for the state that shows a positive balance when we transfer what we anticipate in this bill along with the cash...the rainy day fund. We will have adequate amounts, plus you've got that savings account as I talked about, so, yes. [LB331]

SENATOR BRIESE: Okay. Thank you, Senator. That's good to hear. I appreciate that you're confident in that. But after hearing the dire predictions of Senator Erdman last evening, I feel additional cuts should perhaps be explored. And I'd like to comment for a bit on university funding. I understand the importance of the university system to our state. It's a huge economic driver locally and for our state. But I do want to point out some information that my office dug up relative to higher education spending in Nebraska, and I passed out a handout earlier that will show some of these things. According to our research, state and local support for higher education operating expenses in Nebraska are roughly 34 percent higher than the national average. In 2016, Nebraska ranked number 11 in the nation in state higher education spending as a percent of GDP. We rank in the top ten in the nation in state higher education spending as a percent of General Fund expenditures. We rank number six in state higher ed spending per capita. We rank number three in state higher education spending per full-time enrolled student. Let's compare that to our support for K-12 education. There we rank 49th in the country in the percent of K-12 education derived from the state. And at 49th, dare I say, no wonder we have a property tax issue in Nebraska. But we're not talking property taxes here today, or are we? I had a constituent in Neligh suggest to me last summer that revenue dedicated to university funding should instead be dedicated to property tax relief. I thought that was an interesting thought. But that's not really my point here today. My point today is that university funding in Nebraska ranks high relative to other states. Perhaps that needs to be part of the conversation here. Thank you, Mr. President. [LB331]

PRESIDENT FOLEY: Thank you, Senator Briese. Senator Hughes. [LB331]

SENATOR HUGHES: Thank you, Mr. President. Good morning, colleagues. I'm a bit uneasy coming up and talking about this since I sit right behind the Chairman of Appropriations and right next to the Vice Chairman. I'm kind of in a bit of a tough spot with my friends and seatmates. But I do want to talk about this year's budget. I think it's clear that some of us are unhappy with the work that the Appropriations Committee has done. We know they have done a lot of work, but we don't have a revenue problem. You know, finding more revenue is not the issue that we have. We have a spending problem. If you look at the amount of growth in our

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

Floor Debate  
May 04, 2017

---

spending, it's too much for a small population state. Senator Briese brought up the University of Nebraska. If you look at some of the salaries that are being paid, I don't have the sheet in front of me, but I will get it, and I hope someone will share what they're spending on administration. It's huge. We need to cut spending. We have plenty of revenue. Our revenue growth is over 1 percent this year and that's in a terrible agricultural-downed economy. We have a spending problem. We need to make some adjustments to the agencies that are taking our tax dollars to help them transition to fewer tax dollars because that's what's coming. Agriculture is the number one driver in this state, the economic engine, 25 percent of our state economy, and we are on our knees with no light at the end of the tunnel yet. Will we come back? Yes. But not for a while, save a natural disaster somewhere in the world that will bring crop prices up, and I don't see that happening. Agriculture is the economic engine of this state. And we need property tax relief. I thank Senator Friesen and Senator Erdman for continuing that debate yesterday late into the night and we're cranking up again this morning. If you look at some of the votes, there's a lot of unhappiness with the budget. There's enough votes to pass it, yes, 25. We'll see if there's 33 for the e-clause. Folks, we have a very tough job to do here. We need to cut spending. We have plenty of revenue. We just need to make sure that it's allocated in the proper amounts and quit stealing from all the funds that have been collected for specific purposes and we're putting them in General Fund or the General Fund just to prop things up. It's not good. It's a recipe for disaster. Thank you, Mr. President. [LB331]

PRESIDENT FOLEY: Thank you, Senator Hughes. Senator Bolz. [LB331]

SENATOR BOLZ: Thank you, Mr. President. First, Senator Briese, I appreciate the question about the cash flow and I appreciate Senator Stinner's detailed analysis and thoughtful approach to ensuring that the cash flow issues can, in fact, be addressed under the Appropriations Committee proposal. To those of you standing up calling for further cuts, I would share with you that last week I received a list of proposed cuts from the Governor. And everything that was shared with me was that this list came from the Governor's Office. On that list included the Water Sustainability Fund, which my seatmate, Senator Hughes, sat in his seat next to me and asked me to protect, which I did. We also protected the Universal Service Fund, which provides aid for telecommunications in large part to a number of rural communities. We also protected state colleges who have received no cut in this budget, which also serve rural communities. Colleagues, if you are looking for further cuts, there are further cuts to be made, but I stood on this floor and I sat in Appropriations Committee and I protected the priorities of this body as a whole. We protected the priorities of the body as a whole. Water Sustainability, Property Tax Credit Fund, Public Service Commission, Universal Service Fund, state college, community college, provider rates. The list goes on. Pension. The list goes on. This is not a budget done by one individual member of the Appropriations Committee. This is a budget for the state of Nebraska. So if you're looking for further cuts, further cuts will hurt all of us. Thank you, Mr. President. [LB331]

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

Floor Debate  
May 04, 2017

---

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Erdman. [LB331]

SENATOR ERDMAN: Thank you, Lieutenant Governor. It's nice to be able to speak when it's not dark in here. It seems this is morning that Senator Stinner is using his linebacker voice already. And I'm disappointed that he has to do that or feels that he needs to. We had a discussion last evening in the dark about this budget, this bill and LB327 and all others. And perhaps what we should be talking about here is dividing this out and going line by line and making some cuts. We throw this thing up there and we say this is really worked on hard, and we solved our difficult problems. And we're going to lower the cash reserve from 3 to 2.5. That's going to solve it. Well, Senator Stinner can think what he wants about my comments last night or today. I understand that. He's a Senator and so am I. Whatever he has to say, I'm willing to listen. But just for the record, just for the record, we need to make more cuts. And maybe we need to go line by line by line. All right. Get specific. Senator Hughes, give an overview of what he understands and believes and is concerned about. Senator Friesen did a nice job carrying on from where he left off last evening. And I appreciated all the people that stuck around and listened and voted for AM1288. I appreciate that. So this bill has a long ways to go and you seen that last night by the number of votes that were against LB327. So I ask you, I ask you today, let's consider how we can make line item changes and cuts and leave here with a balanced budget based on not somebody's guess, not somebody's assumption over a 30-year average, but reality what it looks like today. This is not reality. Call it whatever you want. You can say the crazy guy from the west is here and he doesn't understand this is not how we do this here, this isn't how we do it. We got to all be congenial, we all got to agree that we're going to go down the tube together. I'm not going down there. We have to make some cuts. Start with the university, start with whatever we want to start with. All right? I wasn't going to say this, but maybe I will. September 16, Omaha World-Herald, the University of Nebraska President Hank Bounds received a 6.3 percent increase in salary. His salary was raised from \$480,000 to \$510,000. He then in turn...by the way, it was approved unanimously, no discussion. He then in turn gave all the chancellors about a 3 percent raise. And I believe the Governor sometime early last fall, before perhaps September 16, made a comment that we're kind of going south here, let's hold our spending. But that didn't happen. So the point being, everybody's got to make a little sacrifice here. And so maybe we need to go back and start looking at line by line what we're going to cut, come to some specifics, and let's make a difference. [LB331]

PRESIDENT FOLEY: One minute. [LB331]

SENATOR ERDMAN: Because going forward and Senator Stinner can say we're not going to have a Special Session. He can say whatever he wants. I can say whatever I want, and we'll find out who is right. And I really hope that he's right because I don't want to come back and I don't want to make those kind of serious cuts that we're going to be forced to make. So let's get together and work on how we can make this a budget that we can all be proud of, and not just

Floor Debate  
May 04, 2017

---

nine people on the Appropriations Committee or six, or how many voted for it. Thank you.  
[LB331]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Williams. [LB331]

SENATOR WILLIAMS: Thank you, Mr. President, and good morning, colleagues. And I appreciate the debate we're having and feel compelled to engage in that at this point. We've talked a lot about the process that we go through in here and the process that the Appropriations Committee has used and I appreciate the committee members that have worked so hard and done their due diligence. And if I heard Senator Stinner correctly this morning when he was introducing AM1278, he talked about the fact that they met. They looked at the potential cuts that the Governor proposed, and everyone around the table was asked what cuts do you propose, and the room was silent. So I find it interesting that now we're going to have a discussion from some of those same people about cuts that they're going to want to make that they did not seem to want to bring up in the committee for discussion through our process. I would caution us all, as I've said before, to not allow our beliefs and opinions to become the fact of the day. We can sit here as 49 prognosticators, people looking into the crystal ball, which we should do. And there's differences of experiences in here of people that can do that, and I would hope we rely on those that have more qualifications than others to make those decisions and make those recommendations. So I trust the committee. I appreciate what they have done and I certainly support the change in going from 3 to 2.5 percent at this point in time. I believe it's prudent. I believe it makes sense. There has been a discussion started this morning about the University of Nebraska. I'd like to step back and talk about that just briefly, because we've also had a discussion about farming and the importance of agriculture to our state, which it absolutely is. I would also suggest that while some are farming our land, others are farming in the sense of building a future of Nebraska by educating our kids K-12 and educating our higher ed University of Nebraska system, Creighton, our community colleges, and others that are farming that important asset that we have. If we are going to eventually grow out of the problems that we have, we have to intentionally find ways to grow. You cannot to your community recruit people if you don't have a level that meets their expectations with education. You can't bring them to your community if you don't have a level of medical care that meets people's expectations. In the broader sense, we cannot recruit and hold people in our state if we don't do that on a statewide basis. And I would sense that the University of Nebraska both with its campuses in Lincoln, Kearney, Omaha, and the Med Center and Curtis is part of that solution. It's not our problem. Our investment there pays us back in spades. And I believe we need to focus on that. It was also mentioned... [LB331]

PRESIDENT FOLEY: One minute. [LB331]

Floor Debate  
May 04, 2017

---

SENATOR WILLIAMS: ...on the microphone about the highly paid people that we have at the university system. I'm certainly not embarrassed by that. We need to have the best and the brightest working in our university system. I was faced with a statistic that somebody threw out to me that we have so many people in the university system that make more than \$100,000 a year. I compared that percentage to other well-run businesses. University employees that make more than \$100,000 a year are no more a larger percentage than even in my little bank sitting in Gothenburg, Nebraska, or other industry people like that. We need to figure out how to make this work. [LB331]

PRESIDENT FOLEY: Time, Senator. [LB331]

SENATOR WILLIAMS: Thank you, Mr. President. [LB331]

PRESIDENT FOLEY: Thank you, Senator Williams. Senator Krist. [LB331]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues. Good morning, Nebraska. This is my upbeat and we're going to get something done voice. And I hope you pay attention to a few words that I have this morning before you turn me off completely. And I hope Senator Erdman is listening as well. Thank you, sir. We have five budget bills, Appropriations is going to give us, LB328, LB329, LB327, LB330, and LB149. I'm in the business of aviation. I want to land in Denver this afternoon. I start out from Omaha doing mission planning. How much fuel do I need? How many passengers do I have? Is my weight and balance good? Is the air traffic control lane clear? Have I filed my flight plan? Am I going to get there? Okay. So I would ask you to come to my world for just a second. Those five bills all have to have 33 votes, and I know there's discussions going on on the floor and I'd ask you to pay attention to this for just a second. All five of those bills have to have 33 votes, because we need to land in Denver at 3:00 this afternoon. My analogy. If we don't have 33 votes, if these do not have e-clauses on them, the state of Nebraska will not be funded. It will shut its doors. No more tourism welcome. No visitors welcome. No State Patrol working. No Corrections buildings open for business. For two months, the months of July and August. So I would ask you to file this flight plan with me. And as Senator Erdman said earlier, if you have specific recommendations, we are all now the Appropriations Committee. If you want to cut the salary for Hank and the boys at the University of Nebraska, get the amendment on here, or reduce their appropriations and let's talk about it. If you want to preserve the Water Sustainability money--as it stands right now, Senator Watermeier is not here, I know he strongly agrees with the Water Sustainability Fund--then find some way to adjust this because these need 33 votes. If that's the end game, then start mission planning and flight planning now to get to where we need to get to. Enough analogies. Senator Walz, I don't think is on the floor. I know she had a call to make. But I want...is she on the floor? Senator

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

Floor Debate  
May 04, 2017

---

Walz, are you here? Could you entertain me for a minute on the mike? Senator Walz yield?  
[LB331]

PRESIDENT FOLEY: Senator Walz, will you yield, please? [LB331]

SENATOR WALZ: Yes. [LB331]

SENATOR KRIST: How did the Costco factory get into Fremont area? Do you know? [LB331]

SENATOR WALZ: I don't know how it happened initially. I believe Costco contacted Fremont and I know that it took a lot of work and it took a lot of business people, farmers, bankers, just a lot of people who rolled up their sleeves and came to the table with Costco to get in there.  
[LB331]

SENATOR KRIST: And is that an agricultural interest? [LB331 LB331]

SENATOR WALZ: Yes, absolutely. [LB331]

SENATOR KRIST: How many more chicken farmers are there going to be sustaining that factory do you think? [LB331]

SENATOR WALZ: A lot. [LB331]

SENATOR KRIST: So, Senator Erdman, who grew that business? Those of you who are asking about agriculture and sustaining agriculture and building agriculture, who grew that business? And I don't want to put Senator Walz on the spot because she has only been here for a few months, but that happened with a group of people, the Chamber of Commerce, the State Chamber of Commerce, the local Chamber of Commerce, and it happened because people who are in Omaha in businesses that wear suits are looking out for the agriculture business and building that business. They spent years. [LB331]

PRESIDENT FOLEY: One minute. [LB331]

SENATOR KRIST: Costco came back and said you're not ready, you're not ready, you're not ready. All of a sudden they were ready. They spent years bringing that factory here. It is a state of Nebraska goal to build businesses across the state, agriculture or not. Within the discussion to get to the 33 votes on these five bills, we have to leave our baggage in the baggage compartment

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

Floor Debate  
May 04, 2017

---

while we fly to Denver. Put it away. If you've got solid, honest suggestions going forward, let's get them on the table. Now is the time. No foolishness like bracket motions. No trying to kill anything. These five bills are very important. Let's get to the point. We could even reintroduce Senator Erdman's bill to look at reforming our tax process across the state. Nothing is off the table. [LB331]

PRESIDENT FOLEY: Time, Senator. [LB331]

SENATOR KRIST: As long as we say it's germane, nothing is off the table. [LB331]

PRESIDENT FOLEY: Time, Senator. Thank you, Senator Krist. Senator Morfeld. [LB331]

SENATOR MORFELD: Thank you, Mr. President. Colleagues, I want to talk just a little bit about the university. Now Senator Briese brought up some figures that Nebraska funds our university in a way a lot of other states don't. I think...I don't have the exact citation or the exact figure that he provided, but he said that we were number one in the nation in terms of that. Nope, he's not. Okay. Well, I'll get that, but in any case I'll clarify that. I think that we should be proud that we fund our university the way that we fund our university. We should be proud because the university is producing the graduates that will go out and work on our farms, in our rural communities, in our urban communities, at a time when about 70 percent of current jobs and future jobs will require a university degree in our work force. And I'll tell you as a recent graduate from the College of Law in the University of Nebraska, that I'm...even though we are one of the most affordable universities in the entire country, I still have friends who are in state that have a tough time juggling their bills with their student loan debt. And that's at one of the most affordable universities in the country. And I'll tell you one thing that's tough to do. It's tough to go start a business when you have overwhelming student loan debt. It's tough to be able to pay for your own healthcare and be entrepreneurial when you can't pay the bills because of student loan debt. And I'll tell you, I have a lot of friends that decided to go out of state for school, and they're regretting it now because they're locked into a job that will provide healthcare for them because they can't afford to get out because of tuition debt. So if we want to be shortsighted here and say, you know what, university, let's just cut them a little bit more, and increase tuition because that's what's going to happen. If you look at the breakdown of the university budget, if we institute these additional cuts...and I want to say, additional cuts, we've already cut the university by \$26.3 million when you look at LB22 that we passed earlier this year and you look at cuts moving forward. And that's not even including, I believe, another \$20 million or so that didn't even factor in healthcare cost increases and other things that we are not accounting for. Just to put that in perspective, \$50 million, you could close UNL, UNO and UNK colleges of business. That's \$45 million. Shut down the ag research division, that's \$44 million. I guess if you guys want to do that, we could do that. Close UNK. We could just close the entire

Floor Debate  
May 04, 2017

---

university in Kearney. I think that would maybe upset some people in Senator Lowe's district. That's \$40 million in savings. Or we could just close down the colleges of nursing, dentistry and pharmacy. We'd save \$34 million but you know what, we have a healthcare shortage. And we built those institutions in rural areas to be able to invest in those areas and provide qualified healthcare professionals so that those rural communities could continue to grow. These are investments in our state. They're not only investments in our state, they're investments in our people. We should be proud of the fact that we invest so much in the university and despite investing so much in the university, we still have been prudent over the last 30 years. Thirty years ago the university made up 21 percent of the state's budget. Today that's dropped to 13 percent. I would say we're being prudent. Not only have we dropped our commitment to the university over the course of 30 years by half essentially... [LB331]

PRESIDENT FOLEY: One minute. [LB331]

SENATOR MORFELD: Thank you, Mr. President....we've also been able to ensure that we still have a commitment that's very strong as compared to the rest of the country, as Senator Brieese stated earlier. The state appropriations at the university has grown much smaller than the appropriations to Medicaid, state colleges, community colleges, state spending overall. It's important to remember that three-fourths, three-fourths of the people going to the university are people from instate, our own children. This is an investment in them. We need to be prudent about it. The university has done an excellent job in absorbing the cuts that we have given them, and they have been big cuts, make no mistake. We need to be prudent and we need to be looking toward the future. Thank you, Mr. President. [LB331]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Pansing Brooks. [LB331]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. I rise today in support of AM1278. I am grateful for the important work that our university does. You know, I've been a member of the Lincoln Chamber of Commerce for over 30 years now. And among the Lincoln Chamber of Commerce and the State Chamber of Commerce, their number one issue is work force development. And clearly we understand the tie of a great educational system to that work force development. More cuts to public education, it means a more difficult time for the businesses that are trying to increase that work force. We are so fortunate to have one public university and not be a state like Oklahoma that has the University of Oklahoma, the university...or Oklahoma State University. They're trying to fund a number of different public universities. We've got one system. We're leaner and meaner than a lot of the states around us because we have been really blessed by a great educational system at the University of Nebraska. I'm concerned about further cuts to the university system, as Senator Morfeld has pointed out. We've been cutting for years now. And to continue to cut after they've already made significant

Floor Debate  
May 04, 2017

---

cuts, affects our work force. It affects our future teachers, our future ag providers, our future entrepreneurs, our future farmers and ranchers with some kind of what to do about soil and crops. We have to continue to sustain a skilled and educated work force. The University of Nebraska is providing great education at an affordable price. In the past couple of years, U.S. News and World Report gave the UNL College of Law, which is my alma mater, the number one ranking for the most affordable and best deal in the country. The best deal in the country. So this affordable education is important especially in tough times for the ag sector. If the ag sector is having a tough time and we decide that, well, we're going to make more cuts to the university, how do the kids go to school if we're going to increase tuition and force the university to increase their tuition and costs? The university is part of the reason that we are making grounds in high-tech areas. If you take a look at Hudl that's just down the street. I think Hudl is in Senator Morfeld...or actually, I think Senator Wishart's district. And that company is a sports technology company that was founded by UNL graduates. And they could have started their business anywhere else, and they would be highly welcomed anywhere else. But they've chosen to live the good life, to help our economy here. They're hiring...they have a plan to expand...I don't know if you've seen their building, but they are building a new building. And they're planning on adding 300 high paying jobs to the Nebraska economy. That is because of their education and of the fact that we have an incredible... [LB331]

PRESIDENT FOLEY: One minute. [LB331]

SENATOR PANSING BROOKS: ...institution down this street, down the street that does so much for our economy and our work force. It is clear from the discussion from the Chambers, the state and the Lincoln and the Omaha, that work force is the number one issue. So if we continue to make...if we work to make education unaffordable, guess what's going to happen? Well, we can get some more McDonald's, we can get some more Starbucks and places that pay people less...actually, I don't think Starbucks pays less, but anyway, we can get jobs that aren't high paying that don't have a future. And if that's our goal for this state, yes, ag is the number one driver, but the university is the number two driver. And 70 percent of all the jobs in the future will require a higher degree of education. [LB331]

PRESIDENT FOLEY: Time, Senator. [LB331]

SENATOR PANSING BROOKS: Thank you very much. [LB331]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Hilkemann. [LB331]

SENATOR HILKEMANN: Thank you, Mr. Chairman. I'm wondering if Senator Hughes would answer a couple of questions for me. [LB331]

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

Floor Debate  
May 04, 2017

---

PRESIDENT FOLEY: Senator Hughes, would you yield, please? [LB331]

SENATOR HUGHES: Of course. [LB331]

SENATOR HILKEMANN: Senator, a few minutes ago you made the comment that we all know that the salaries at the university are too high and then I think you followed that up...I don't know if that's a fact but we know they're too high. Is that about what you said? [LB331]

SENATOR HUGHES: I didn't have the sheets in front of me that make a comparison between the top five salaries in the university of Nebraska and all of the salaries of the state senators, the Governor, all the administrative offices, the Supreme Court justices, those five people make than \$83,000 more than all the rest of us in top government positions. I was indicating a comparison. [LB331]

SENATOR HILKEMANN: Okay. What I'd like to point out is that, did you know that UNL faculty salaries are actually 5 percent less than most public universities? [LB331]

SENATOR HUGHES: I did not have that knowledge. [LB331]

SENATOR HILKEMANN: Okay. Did you to the know that UNMC faculty salaries are 7 percent less than the average peer institutions? [LB331]

SENATOR HUGHES: If you want to get into an argument of how we compare to other places that is a snowball that begins to grow. I've sat on the school board and CIR is a good indication of that. When you have to be at the norm, everybody keeps raising theirs and all of a sudden everybody is out of the...you know, out of line. You know, comparisons don't mean a whole lot to me. [LB331]

SENATOR HILKEMANN: Well, Senator, I'm...I don't mean to be...I don't want to be combative on that, but don't you in your school district, if you were paying 25 percent less than every other school district around you, would you be able to recruit your teachers? [LB331]

SENATOR HUGHES: Possibly. There are other things than money that bring people to positions. [LB331]

SENATOR HILKEMANN: Okay. You know, I was actually in teaching for three years, and in the community...this was years ago before they had salary schedules and things of that sort. I

Floor Debate  
May 04, 2017

---

found out when I got to the small school system that I was in, I was the second highest paid teacher even though I was just out of college, because I was a science teacher. They had to pay more for me to get a science teacher to live in that area. What I want to get to is that...is that I don't like this thing, we're paying too much when you think about what...how do we compare with everybody else because our university has got to pay commensurate with what other universities are paying or we're not going to get the best of the best. Whenever I...thank you, Senator Hughes. Whenever...one of the things that I have always talked about, if you want to talk about what community you want to live in, do two things. Look at the...you drive around the town, you can look the houses and you hear things about it. I just look the churches and the schools. If the town has...if the people will invest in their churches and they will invest in their schools, that's the sort of place that you may want to set your roots. I think that's the same thing as it is for industries, when they come in to look at Nebraska, to building. They're going to be looking at our universities. They want a strong university. [LB331]

PRESIDENT FOLEY: One minute. [LB331]

SENATOR HILKEMANN: We need to preserve what we have and we need to...we do not need...we've already cut the university. It's going to lead to salary increases. Decisions were made a couple of years ago that we didn't increase the tuition in Nebraska for two years. In my opinion, that was a bad decision because it put the university behind the eight-ball. Folks, we are...we have about 1,400 according to the facts, about 1,400 university employees that make more than \$100,000. That is 15 percent of the employees at the university. Most of these are at UNL and UNMC. Most of these are faculty members and about 30 percent of those salaries are financed from funds other than taxpayer dollars. This is by a chair or whatever else of this sort. I would just maintain to you... [LB331]

PRESIDENT FOLEY: Time, Senator. [LB331]

SENATOR HILKEMANN: Thank you. [LB331]

PRESIDENT FOLEY: Thank you, Senator Hilkemann. Senator Albrecht. [LB331]

SENATOR ALBRECHT: Thank you, President Foley. Okay. This to me...this discussion is good, and last night I wish we would have gone until 9:30 because honestly I think the frustration on this floor is either you don't know or you don't care. I care. I care deeply about the budget. I care deeply about the funds that people have given us to work with. I appreciate the frustration that came out of Senator Erdman and Senator Friesen's and even Senator Schumacher's, you know, last night their voices were heard loud and clear that it's not that we are upset in any way with the Appropriations Committee, because, trust me, as a Chair of a committee, I fully understand the

Floor Debate  
May 04, 2017

---

dynamics of what's going on, and I think...you know, please don't take it...this is constructive criticism, if anything, just to listen, to hear what the senators on the floor...again, there's 18 of us and several on the Appropriations that, you know, this is all new to us. But we're also going into something so deep-seated that it would be nice if we could have come down here with money to spend and programs to embark on, but as a Chair, I was told that nothing in the committee should come out if there was a fiscal note. Now there have been many, many bills on this floor with fiscal notes. So we haven't even got to the bottom of what we're doing with this budget and we all know that there's A bills out there that have to have money appropriated to them. My concern is, you know, this money is...you know, are the taxpayer dollars that we get in, property tax, sales tax, income tax dollars. It's very confusing to me. I've been through many, many budget cycles with cities and counties. Now I'm at the state level and it's a much, much grander task to take on, and I understand the severity of getting a balanced budget. We don't want to come back. We have spent plenty of time here. If we can't get it done in the short time, there's something wrong. But last night, I was in the queue with Senator Wayne's amendment, AM1229, and I was asked if I could just, you know, give the floor to Senator Wayne because he was...it was time for him to...he was going to pull his amendment. But yet, I had so many questions. What the public needs to understand is, yes, we have our budget book, and, yes, we can look through however many pages there are of that, but this one amendment last night was 149 pages long, and a full page of changes. So, you have to wrap your arms around that, just like right now, and try to figure out whether if it's a good bill or bad bill or something you support or don't support or have questions about. My questions to Senator Wayne, and we were just talking about it, you know, that was \$4.7 million that he, you know, wanted to give back to the foster care parents and...but if he...he pulled it for a reason. And I guess I'll yield to him in just a minute to find out why. But when I drove home last night I kept thinking, you know, there's so much complexity in this, and I, again, thank the Appropriations Committee. I get it. But just be patient with us when we're letting you know that there are other things that we...we have to cut spending, cut spending, cut spending, cut spending. As Senator Krist talked about, property tax, property tax, property tax. That's why I'm down here. I am here to represent the farm and ranch families across the state of Nebraska. [LB331]

PRESIDENT FOLEY: One minute. [LB331]

SENATOR ALBRECHT: We have to be heard. We have to be understood, but this budget is no different than that. If the funds aren't there, what...I mean, when I got down here and I found out the deficit we were in, I said what in the world happened, you know? I mean, do...where do you start cutting? We don't need to say that we're singling out anybody, but like this Water Sustainability Fund. I only have one minute. I'll probably push the button again, but I'd like to know who funds that? How does that money get in there? What projects do they currently have? Are we taking away any money that they have for future projects? Are we protecting our state and taking the funds out of there? I mean, I have a lot of questions and I have talked with Senator

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

Floor Debate  
May 04, 2017

---

Kuehn quite a bit, Senator Clements. You know, everybody is busy. And just be patient with us and help us to understand what's going on with this budget. I don't want to have to be a red light, but until I can wrap my arms around the fact that we have done our very best... [LB331]

PRESIDENT FOLEY: Time, Senator. [LB331]

SENATOR ALBRECHT: Thank you. [LB331]

PRESIDENT FOLEY: Thank you, Senator Albrecht. Senator Wishart. [LB331]

SENATOR WISHART: Thank you, Mr. President. I rise today in support of AM1278 and LB331. And first I want to encourage any senators who have questions about this legislation to talk with the Fiscal Office and talk with the staff members there. Like I said last night, many of them have 20-plus years of experience in working with the budget, and they will be able to answer any of the detailed questions you have on this budget. I want to put into perspective for everybody kind of what is the end goal that we're working towards? I've heard a lot of...I've heard some people say today that if we don't pass this budget, then we will default to the Governor's budget. I want to be clear and have that clear in the record that that is not the case. The only time that we would default to the Governor's budget that he brought in January would be if the Appropriations Committee did not bring a budget to you by the 70th day, and we did do that. And I would like to say that even if it were the case that is what would happen...and I want to state very clearly that is not the case, but even if it were the case, the budget that the Governor brought to us in January was before we had two additional fiscal forecasts and additional deficits that the Appropriations Committee had to make up for. I also want to tell you that if we go past the 90th day, which is early June, and we will either go into a Special Session or, if by the new fiscal year which begins July 1, if we do not have a budget passed at that time, we will shut down. I want to be very, very clear about that. This is what we're working with. And that means no heating, no lighting, no money to Corrections. Your staff salaries, no money appropriated to those. All cash funds, General Funds, federal funds, revolving funds, will not be appropriated. And I also want to clarify that if this budget doesn't pass with 33 votes and only 25, if it does not pass with 33 votes, then until September, if we don't have that e-clause, no appropriations will occur. We will have a shutdown. So I want everyone to be clear that this is what we're working with, and I personally do not want to be part of a team of people that causes a government shutdown. So I hope that we think logically about this, work together, and pass a budget. Thank you. [LB331]

PRESIDENT FOLEY: Thank you, Senator Wishart. Senator Hansen. [LB331]

Floor Debate  
May 04, 2017

---

SENATOR HANSEN: Thank you, Mr. President, and good morning, colleagues. Colleagues, kind of in the past few hours, past 12 hours or so since we left here, 13 hours since we last left here, I've been thinking about what's been transpired and how we're going to go forward and it has been interesting to listen to the debate this morning. I just want to say that I know last night that there was some frustration that we didn't get full and fair debate and I know I was one of the people who voted to agree to call the question and I think that passed by exactly 25. And if that was something on an issue of this importance that is going to have this issue with the budget, I just wanted to let everybody know that that was something I'm now starting to regret and if that more time and more discussion on that issue would have been appropriate, I wish I would have realized that in the moment. That being said, I think the understanding there was that the particular amendment, the...Senator Erdman's amendment...well, I won't go into it, but I think was...I won't go into it from there. Colleagues, I just rise today that we're kind of having broader discussions about what we want to have and do with the state. And I think that's interesting and I think that's good, and I think it's good for us to do. I do want to say, though, there's kind of been various cuts to various funds, various programs, university, frankly, Water Sustainability, what have you, floating out there. And I'm going to kind of hold back and not jump up and comment on any individual one until I actually see an amendment or have some idea on what's being proposed or what's doing, because we can kind of just talk about cuts in the abstract. We can kind of just talk about the budget in the abstract. But, you know, at least with the Appropriations Committee and Senator Stinner, we have amendments with numbers and funds and various things that we know what we're talking about. So going forward, I'd be interested to see what proposals we have. I mean, I think we do have an opportunity to continue discussing what is the best for our state, what is the best level for our budget, what is the best level for various appropriations and agencies and whatnot. As well as, you know, I do understand that taxes and the property tax burden the state has been a continued thing...continued problem that we have seen and been unable to solve. And that's something that I think we should also continue to debate and speak about, the passion, the clarity on that issue is a very strong one. It's been partially my disappointment that proposals and opportunities to address that haven't really gotten to us on the floor outside of really the Property Tax Credit (Cash) Fund that we've increased over the past few years that's become a bigger and larger role for budget. But with that I'm going to continue my trend in standing with Senator Stinner and the Appropriations Committee and I will be supporting AM1278 and LB331. Thank you, Mr. President. [LB331]

PRESIDENT FOLEY: Thank you, Senator Hansen. Senator Groene. [LB331]

SENATOR GROENE: Thank you, Mr. President. I appreciate the work of the Appropriations Committee and I understand what it's like to have a, kind of a split committee. The best they could have brought out, but I've got to make some points here. This is a deficit budget. By that I mean we are spending more than what we're bringing in revenues. Period. There's a \$180,000, we're robbing from our piggy bank, two hundred and some million dollars we're taking down our

Floor Debate  
May 04, 2017

---

savings account, and we still can't control our budget as a family by increasing it by 1 percent. That's not sustainable. The budget is \$88 million more...about \$89 million more over the previous biennium or more. Increased spending. It's not sustainable. I will pick on the university, the administration because they pick on us. Threats. People with Ph.D.s, supposed to have a little wisdom. First thing out of their mouth, they're going to raise tuition. Second thing out of their mouth, they're going to cut extension for rural Nebraska. So I'll fight back. Five hundred eighty million dollars is what they are getting. I've handed out a...I will defend the taxpayers of Nebraska. I handed out a handout that came from the...SHEEO, which is an organization of school and then there's college administrators so they're not biased, they're not some right wing or left wing. They are what they are. They represent the colleges. If you look at the first page, we're third in the nation, third in the nation, only behind Alaska and Wyoming with all their natural resources of \$8,769 per full-time equivalent student that we support. And that's community colleges and the state colleges. we're third in the nation. The second handout, public higher education appropriations per full-time student percent change in the last five years. Folks, a lot of states have cut. We're the fifth generous. We have increased spending to higher education the fifth in the nation behind Oregon, Indiana, North Dakota, and California. That's what this body has done. Now, here's the thing I've always believed without the facts, that because we're so generous, that our tuition is less. If you think we were the third in the nation in support of our public higher education, we should be third lowest tuition. We're 28. There's a gap there, folks. That points to me to the regents which are the elected officials and the administration. Where is that gap of spending going? Frivolous spending? I don't know. We spend three hundred...overall, I'm learning on this, their budget is \$2.5 billion, but most of that is federal money and grants and a foundation. Basically to fund our instructional, plus the extensions, it's \$941 million. This body funds \$580 million of it. Eleven million dollars goes for matching on bond, on maintenance. I don't know, could we cut a little bit of that? Another \$11 million dollars goes to...excuse me, another \$11 million goes to... [LB331]

PRESIDENT FOLEY: One minute. [LB331]

SENATOR GROENE: ...research to...money, \$11,700,000 is seed money to retract federal money. Now who is getting that \$11 million? We need to look at this seriously, can we cut? Can we do it, administrative costs? Can we cut back for...just last year we gave \$3 million on top of \$25 million for the virtual reality training facility. Three million dollars a year is put in our budget that we have to pay for the employees there. That's written there every year. They can't even create enough income that we have to fund their employees for this experimental facility. They can cut more. There's a gap there. What are they doing with that money? Students are already paying high enough tuition if we're 28 in the nation and we're third in the nation of support of the university. [LB331]

PRESIDENT FOLEY: Time, Senator. [LB331]

Floor Debate  
May 04, 2017

---

SENATOR GROENE: I'll return to this subject later. [LB331]

PRESIDENT FOLEY: Thanks, Senator Groene. (Visitors introduced.) Continuing discussion. Senator Vargas. [LB331]

SENATOR VARGAS: Thank you very much, Lieutenant Governor. Colleagues, I stand in support of AM1278, senator's amendments, and in support of the underlying bill. A couple of statements, things that I want to make sure that we are discussing. The first is, just a couple sort of responses. I appreciate Senator Albrecht bringing this...I want to make sure we have a full understanding of what the budget is. I think that is important and we do our best and I echo Senator Wishart's comments that we have our fiscal analysts and our fiscal team on the right-hand side. If you have questions about a specific, the historical changes in an agency, the ebb and flow when we talk about aid versus operations, when we're talking about what might really harm services and harm things that are going to help Nebraskans versus things that we have cut and really tough decisions we've made. I urge you to talk to them because they're going to provide a level of clarity that I believe provides a more unbiased thought process on how we went about making decisions. And I do also want to thank Senator Groene for bringing...continuing to bring the conversation that we should be talking about especially when he made the reference to...sometimes we have split committees. I think we have a very diverse committee. I think the diverse of our committee, diverse in ideology, if you want to say party. Obviously, it's diverse in balance in terms of representation in the state, and that's on purpose. That's the beauty of this process. It's on purpose so that we have a different group of us that are making decisions when we're trying to pass the budget to inform what we do. And I want to talk about passing a budget. I want to just remind colleagues around the process. What this meant is, we had agencies come with a set of very line item specific potential cuts, with a rationale between each cut. Each specific line item cut to every agency was discussed before we went into a hearing, and we cut things. We kept some things. We added. We asked questions. We debated, within the process, within our Appropriations Committee, chaired by Stinner, making sure that we're providing a dialogue around every single decision. We had a hearing where individuals were coming to then debate where our original proposed budget recommendation for every line item was and wasn't, people asking for more, people asking for less. If there's an illusion that you believe that every single person got what they wanted and every single agency was not harmed and they were given everything they wanted, I want to address that that is not the case because that is a false narrative. After our hearings we then went back and we decided whether or not how much more we would cut from specific agencies, whether or not we would add, which I will say was very unique scenarios. We didn't do that very often. In fact, we went back more to find more ways to cut and balance our budget. We went back and then did more to ensure that we were asking questions of agencies. We had an ongoing dialogue with people. And when we came to some conclusions that were grounded in what the committee had learned, we came to votes, and based on those votes, that's what's come in front of you. I know not everybody may not be happy, but

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

Floor Debate  
May 04, 2017

---

we have a balanced committee, balanced in every way, shape that we can possibly have that made decisions informed by data, informed by three-plus months of ongoing debate and a fair process. And we made these decisions with the best of the intentions of Nebraska, knowing our fiscal situation and knowing that we are doing everything we can. Now I do implore you to ask the questions of our Fiscal Office and find out more and come to us off the mike and talk to us about it. But I can tell you that there was...there were cuts, there were concessions, not everybody got what they want. [LB331]

PRESIDENT FOLEY: One minute. [LB331]

SENATOR VARGAS: And I'll be the first to tell you that. And University of Nebraska is a prime example. We had a proposed budget cut of the University of Nebraska that the Governor recommended and we had what the University of Nebraska probably would have wanted, which is nearly no cut. I'm going to tell you our first proposed number was somewhere in the middle. Not everybody was happy about it. So if there's a solution that the University of Nebraska didn't take a cut, they took a cut, a cut they didn't want and they fought furiously to not have. I myself was actually okay with that. I believed everybody needed to take a little bit when they're contributing to what we're doing. I fought for, make sure that they did take some cut because I believe that they're doing their part. Well, now we're here, and now we looked at these list item of ten budgets and we took some of the things the Governor recommended and we didn't take some of them. And every single committee member had the opportunity to suggest more cuts and I will tell you, there were no more cuts suggested in the committee when we reconvened. So I'm asking... [LB331]

PRESIDENT FOLEY: Time, Senator. [LB331]

SENATOR VARGAS: Thank you very much. [LB331]

PRESIDENT FOLEY: Thank you, Senator Vargas. Senator Halloran. [LB331]

SENATOR HALLORAN: Thank you, Mr. President. Another quick shout, out-shout to the fourth graders from Alcott Elementary in Hastings. Good to see you guys. I hate to be the canary in the coal mine but we talked about this a little bit last night. Senator Erdman gave, I think, a very serious proposal but it was not taken very seriously. I would ask at the floor mike if the Fiscal Office would give a quick review of his proposal. His proposal basically was taking the last budget and adopting the last budget and for to account for increases in salaries and wages and healthcare, take that from the rainy day fund and let's see what that looks like. It was not taken very seriously last night and we expressed our concern that this budget was based upon...was based upon proposed or projected, I should say, projected revenue for the state of 5

Floor Debate  
May 04, 2017

---

percent and 5.2 percent respectively for the biennium. Here's my concern. Now it's a little different concern than I expressed last night so I won't...maybe I can keep your attention for a little bit on this. Much of the revenue for the state comes from income tax. Much of the income tax potentially comes from agriculture. I'm going to discuss briefly. I'm going to run through a few numbers for you, but the approximate cost for production is \$3.99 per bushel of corn. Almost four dollars. Four dollars a bushel of corn. The current corn price is \$3.33. That's 67-cents a bushel times 200-bushel average yield is \$132 net loss per acre. I don't know what business you're in, folks, or if some of you aren't in business, but that's not going to pay any income tax to the state of Nebraska. If you multiply \$132 net loss per acre times nine million acres across the state, that's approximately \$1.2 billion net loss income. That's not going to generate any income tax, folks. Matter of fact, it's probably going to generate some refund, some refund of income tax to those producers. Where is that money going to come from? So, again, I'm going to ask the Fiscal Office from the floor mike to give us a brief review of Senator Erdman's proposal of adopting last year's budget or the last biennium budget, rather, and taking out salaries, and healthcare cost from the rainy day fund and see what that looks like. We could save ourselves a lot of time. Thank you, Mr. President. [LB331]

PRESIDENT FOLEY: Thank you, Senator Halloran. Senator Smith. [LB331]

SENATOR SMITH: Thank you, Mr. President. I stand in support of AM1278 and LB331. Discussing economic growth. We must grow every corner of our state. We must do that. The university is a significant driver in our statewide economy, colleagues, and we must be cautious to the degree in which we cut that budget. We must also embrace a tax code that is fairer, and that is more friendly to all businesses in this state. Small businesses as well as large businesses, but we need to focus on a statewide economy and the University of Nebraska is critical to that statewide economy. With that, I'll yield the remaining time that I have to Senator Lindstrom. [LB331]

PRESIDENT FOLEY: Thank you, Senator Smith. Senator Lindstrom, 4:00. [LB331]

SENATOR LINDSTROM: Thank you, Mr. President. Colleagues, as we debate the budget and wrestle with the difficult decisions before us, I would encourage us to take a step back and really think about what we want Nebraska's future to be like. We have to remember that the choices we make today could have consequences for many years down the road for our children and our children's children. That should make us think twice about making cuts that could do long-term damage. There's some who will try to divide us, but I think we can agree on some basic things we want our families and communities...for our communities. Things like affordable and accessible education, plentiful and high-paying jobs, sports culture and the arts. As a father of young children, that is the kind of world I want my kids to grow up in and I think my

Floor Debate  
May 04, 2017

---

constituents would agree. And although sometimes we have different ideas on how to build Nebraska's future, colleagues, I think we all recognize that we need the University of Nebraska to be a major player. This is an institution that according to the state statutes exists to serve the citizens through education, research, and outreach. By all accounts, the university is doing a good job. The university grows by seven billion every year, a 12-to-1 return on our investment. And I can tell you if that was a stock, I'd be the first in line to buy. They have a record high enrollment and they want to grow even more. Almost half of UNO undergraduates are the first in their families to go to college. That is a life changing opportunity for these young people. Two-thirds of our teachers in Omaha metro area hold a UNO degree and that's impact. Extension programs serve taxpayers in all of our districts, rural or urban, east and west. They're going to see real savings through this process and there's going to be pain. Tuition will go up, services will be reduced, jobs would be lost. That is the reality of what we're facing. But my fear is that if we cut the university too much we're going to arrest the progress that we are making in areas that we as a Legislature care about. We know what happened the last time the university took major cuts. Tuitions went up by double-digits and I was at UNL at the time. I know what it's like. I saw that when we lost students and it took years to recover. The university closed programs and retreated across the state, and we cannot let that happen again. The university is being a good-faith partner in weathering the current storms, but they can also be an economic engine that can help us grow out of this challenge. So, colleagues, let's think beyond the biennium and think beyond Nebraska's future. We need a strong university that will serve our children in the same way that it served each of us in different ways. And I applaud the work of the Appropriations Committee in protecting vital state priorities and I would urge you to not support additional cuts to the university. Thank you, Mr. President. [LB331]

PRESIDENT FOLEY: Thank you, Senator Lindstrom. Senator Kolowski. [LB331]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. I appreciate it very much. I want to start with a comment and I'm going to conclude with that comment as well when I get to the end of my statement. I want to thank Senator Stinner for bringing forward as one of the leaders of this institution, as a major Chairman of a major committee with Appropriations, talking about the list that we received, that we received from Senator Hadley at our Offutt meeting in November after the elections. Finally, someone has gotten back to this list. If we're sitting in a bathtub and we're letting water run down the drain on one end but not replacing it with the faucet at the other end, what do you think is going to happen? It makes no sense at all that we're not even looking at that sheet that he has described and we've talked about in the past. I'll come back to that. I may be...I don't know where everyone was born, where they came from, but I may be one of the only Big Ten background people in this room because I was born in Illinois. I know what it's like to grow up in Big Ten country. As we have been through the Big Eight, through the Big Twelve and now we're members of the Big Ten, the pride that those states have in their universities and the accomplishments that they have provided over the decades of their existence, is immeasurable.

Floor Debate  
May 04, 2017

---

The impact on other states are also immeasurable. The great pride they have in every one of those universities that now stretch all the way to the east coast for us, has tremendous impact upon those states and the economic engines that they provide to make a difference for those states. We do have a low cost tuition compared to many, many other institutions. I hope we'll be able to continue to be positive in our outlooks and our treating of the university as a whole in our state as a major driver. I'd ask you to reflect back just about a week in the newspaper when you might have read about this chancellor search for UNO's replacement for Dr. Christensen who will be retiring. Did you notice with over 100 candidates, those candidates didn't meet the test of what UNO wanted or needed in the future? Did you read between the lines on that article? Do you know how down that pool was? Because people are understanding and hearing about the economic conditions in Nebraska, they backed off. They're not going to apply, and the candidate pool was much less than they desired. So, Dr. Gold, from the Med Center, will be doing double duty for the next year or maybe two, as chancellor of both UNO and the Med Center as we look and open up the candidate search again to find the people that we need to run these universities in a super way to get the results that we want to have for the state. Not only does it reflect in the chancellor searches... [LB331]

PRESIDENT FOLEY: One minute. [LB331]

SENATOR KOLOWSKI: ...what's going on with students deciding where they want to go to college. I want to thank Senator Lindstrom, a former student of mine at Millard West High School, a great pride in his statement supporting the university, and where we are heading in our future. So I ask you to think about, again, Senator Stinner's comments. I'll close with that. As to revenues that are available that we are not touching, it makes no sense at all. In my time as a high school principal I gave out 6,000 diplomas in 15 years. I have extremely high positive future feelings for this state because I know those kids. Many of them have stayed. The millennials have grown the state and we will continue to grow it with very positive results. Thank you very much. [LB331]

PRESIDENT FOLEY: Time, Senator. Thank you, Senator Kolowski. Senator Morfeld. [LB331]

SENATOR MORFELD: Question. [LB331]

PRESIDENT FOLEY: Question has been called. Do I see five hands? I do. The question is, shall debate cease? Those in favor of ceasing debate vote aye; those opposed vote nay. Senator Bolz, for what purpose do you rise? [LB331]

SENATOR BOLZ: I'd like a call of the house, please. [LB331]

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

Floor Debate  
May 04, 2017

---

PRESIDENT FOLEY: There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; those opposed vote nay. Record, please. [LB331]

CLERK: 25 ayes, 3 nays to place the house under call. [LB331]

PRESIDENT FOLEY: The house is under call. Senators, please return to your seats and check in. The house is under call. All unexcused members are now present. Senator Morfeld, will you accept call-in votes? [LB331]

SENATOR MORFELD: I'll actually do roll call vote, reverse order. [LB331]

PRESIDENT FOLEY: Roll call vote reverse order has been requested. Mr. Clerk. The question before the body is to cease debate. [LB331]

CLERK: (Roll call vote taken, Legislative Journal page 1331.) 30 ayes, 13 nays to cease debate. [LB331]

PRESIDENT FOLEY: Debate does cease. We're still under call. Senator Stinner, you're recognized to close on AM1278. [LB331]

SENATOR STINNER: Thank you, Mr. President. Members of the Legislature, I would ask that you take a look at this bill, vote green. It's a disciplined approach to a problem that we have. It helps to balance the budget. Thank you. [LB331]

PRESIDENT FOLEY: Thank you, Senator Stinner. Members, you've heard the debate on AM1278. 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. [LB331]

CLERK: 32 ayes, 15 nays, Mr. President, on the adoption of the amendment. [LB331]

PRESIDENT FOLEY: AM1278 is adopted. I raise the call. Mr. Clerk. [LB331]

CLERK: Mr. President, the next motion I have, Senator Erdman would move to bracket the bill until June 2 of 2017. [LB331]

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

Floor Debate  
May 04, 2017

---

PRESIDENT FOLEY: Senator Erdman, you're recognized to open on your bracket motion. [LB331]

SENATOR ERDMAN: Thank you, Lieutenant Governor. Great to, like I said earlier, speak in the daylight. That was a pretty interesting vote, 32 green. I think it takes 33 for the E clause. There are a lot of people in this body that don't agree with this budget. I had a conversation with Senator Krist off the mike about if you're serious about this, we should talk about what you want to cut. So I'm going to make this suggestion. I made it last evening. I'll reiterate that for the record and for everyone listening. We'll adopt last year's budget as amended by LB622, take out of the rainy day fund the amount needed to pay for those raises that were negotiated with the union people, and also pay for the health insurance coverage increase. And as the "Professor" shared with me last evening or shared with us, that there may be other things and maybe we need to fund TEEOSA some, there are a few things we need to add to that. But it's a far less burdensome process than trying to line-item cut this back \$250 million. And in Senator Stinner's closing he made a comment about this is a good budget, well thought out, and I appreciate what they did. They worked at what they thought was right. It's up to us, 49 of us, to decide whether what they did was what we approve of. And, obviously, by last night's vote and today's vote, there's not sufficient votes to get 33. And the Appropriations Committee stands up and talks about what happens and the disastrous things that happens if we don't get 33 and I understand all that and I think that's a good deal. Here's why: because when it gets against the time frame that we got to make a decision, you'll understand the significance of making cuts. And we're not willing to address that now. We're just willing to kick the can down the road. We're going to lower...let's figure this out. Let's lower the Cash Reserve from 3 to 2.5 percent. Okay, let's do that. What you don't understand or maybe you do, when that Cash Reserve drops below the required amount, Houston, we have a problem. And we're heading there. And as I said before, you know what you can do in one hand and the other, and I'm telling you something, and I made this comment last night. Senator Chambers wasn't here. I'm glad he's here today. But I would like to ask Senator Chambers a question. [LB331]

PRESIDENT FOLEY: Senator Chambers, would you yield, please? [LB331]

SENATOR CHAMBERS: Yes. [LB331]

SENATOR ERDMAN: Senator Chambers, would you like to make a friendly wager? [LB331]

SENATOR CHAMBERS: With you? [LB331]

SENATOR ERDMAN: Yes, sir. [LB331]

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

Floor Debate  
May 04, 2017

---

SENATOR CHAMBERS: I would never bet against the house. [LB331]

SENATOR ERDMAN: (Laugh) Thank you. Would you be interested in hearing what the wager would be, what the...what the consequences or the challenge? [LB331]

SENATOR CHAMBERS: Regardless of how the house couches it, the house is going to win. [LB331]

SENATOR ERDMAN: I found that out last night. When you put your bill up last and the Speaker calls your time, I found that out--you never win. But the bet would be this, Senator Chambers. I would bet that our revenue comes in less than \$4.515 billion. That is what the Forecasting Board is forecasting, or the Revenue (sic) Committee is basing their budget on. I'm making the assumption it's less than that and I would even bet a shiny penny on that one, that it comes in less than \$4,515,000,000. I would also say this, that I believe this year's revenue, when it's all said and done on June 30 and we add it all up, we'll probably be at the best what last year's revenue was or maybe a little less. And so what I ask is if you're serious about having this budget go forward and getting 33 votes and not having someone do some stupid thing like a bracket motion...because there was another senator that put a bracket motion on a budget bill a week or so ago and other people said that was inappropriate to bracket an Appropriations bill. Well, I'm not sure what is customary and usual here because I've only been here 76 days, I think it is. But I guess if you want to get some things done and get somebody's attention, you get in the front of the line. That's what Senator Chambers was...showed me and it seemed to work. So this bill today I put a bracket on, and there will be other bills that the Appropriations Committee has brought that I like as much as I do this one. And I'll put brackets on those or whatever I can do. I'm not sure how the rules work, but I'm learning as we go, Senator Chambers. And I make mistakes, and I will as we go forward. But make no mistake about this. Okay? I didn't come here to raise taxes. I didn't come here to keep spending like we've been spending. Make no doubt about that. So if you did, then you're coming with a different approach than I have. And if you think that you can balance this budget on a guess of a 5 percent increase, 3.9 percent increase, whatever number you want to call it, in revenue, good luck because when we drop down below 2.5 percent, as this bill was passed, this amendment, you will be back. You will be back. And so let's consider what we're doing. Let's talk about how we do last year's budget, amend it to take care of the needs that we have to take care of, and we move on, because I can tell you right now there's not enough will in this body to do anything else. There's not enough will to make the cuts that need to be made because, it's like I said last evening, when you have a plan here and you have a plan to cut spending, and that's what this state has, a spending problem, not a tax problem, and you go out behind those glass doors and you share your plan with those people and they say, well, we hate your plan. And you say, what is your plan, we don't have one but we sure hate yours. Same way inside here. Okay? What is your plan? Oh, my plan is we're going to lower from 3 percent to 2.5 the reserve and we can balance our budget, we don't have to make any

Floor Debate  
May 04, 2017

---

tough decisions, we can just float along and we'll be fine, we're going to be okay. Don't work; they don't work. So if you're in agreement, if you have any idea at all that that budget isn't going to work at \$4.515 billion, join me. Come on over. We'll talk about how we amend last year's budget to make it work to fit what we have already appropriated, and we spend all kinds of money and we make all kinds of appropriations that we don't have and we'll continue to do that. All right? But we need to do one thing, according to what I've been told, is pass a budget. And then I've been told we have to pass that budget by 33 votes so that it has the E clause. We've got some deadlines coming. All right? I'm looking forward to it. I told people when I was campaigning I'm looking forward to going to Lincoln and talking about a billion-dollar shortfall. Maybe once, just once in this Legislature's life, they can talk about making cuts because, as I said, we have a spending problem, we don't have a tax problem. And that spending problem gets worse every year. All right? So if you didn't get a chance to speak last night in the dark, please put your light on. This is your opportunity. Thank you. [LB331]

PRESIDENT FOLEY: Thank you, Senator Erdman. Debate is now open on the bracket motion. Senator Hughes. [LB331]

SENATOR HUGHES: Thank you, Mr. President. Good morning again, colleagues. Since I opened this Pandora's box, I guess I wanted to follow through when I brought up the salaries of the top five individuals at the University of Nebraska. Their total tax dollars, these are tax dollars, these are your dollars and my dollars that we're paying these individuals: \$2,366,000 and change. Another category of tax dollars, us 49 senators, the Governor, the Lieutenant Governor, the Secretary of State, Auditor, Attorney General, Treasurer, and all of the Supreme Court Justices, everybody in top government that makes the rules for the state of Nebraska, total salaries: \$2.281 million and change. Those five individuals make \$85,000 more than everybody in making the laws in the state of Nebraska. My comparison is not that they're making too much money. My comparison is they're tax dollars. That's my point. They are tax dollars. They're our dollars. They're dollars that we're spending. Those are our income dollars. And let's be clear. Everything has to be paid with income dollars, after-tax-income dollars. My property taxes have to be paid with after-income-tax dollars. My sales tax has to be paid with after-income-tax dollars. We have a spending problem, I'll reiterate, not a revenue problem. When it comes to salaries, I'm a free enterprise guy. I believe in the capital system. Whatever the market will bear, let's go for it. But these are tax dollars. This is not free enterprise. These are tax dollars. We are giving them these dollars. It's not free enterprise. So we have a due diligence to be able to question once in awhile how those tax dollars are spent. I guess I'd like to do...put...throw out the idea that we need to do a study and do a comparison, and I've got my staff working on it. I may talk with Senator Groene as Chairman of Education Committee to take a look over the past 20 years, the growth and ratio between administration, faculty, and students, of all of our higher education in the state of Nebraska. Let's take a look at what's grown the most. Is it administrators, is it faculty, or is it students in a ratio? I think that would be very, very interesting

Floor Debate  
May 04, 2017

---

information to have. And one last thing I'd like to point out is we're talking about the process, and I certainly praise the Revenue (sic) Committee and Chairman Stinner for all the hard work they do. But they got it wrong. If you look at the vote on LB331, it came out 6-3. Any other bill we look at in this, any other LB that comes before this floor, one of the first things I look at is the committee statement and see whether it came out 7-0, 8-0, or 9-0. That's a very important indicator as to what the committee learned and what kind of bill it is. Now that doesn't preclude us from agreeing with it or disagreeing with it, but it is an indicator. [LB331]

PRESIDENT FOLEY: One minute. [LB331]

SENATOR HUGHES: That's very important for us to understand that we're letting six people drive our entire budget. They have all the information. I just want a little bit more of it and I want to give them my input. As an employer, I like to hire people to do a job. If it's a school superintendent or one of my employees on my farm, hire a good person, explain the task to them, and let them do their job. That's what the committee did. But you need to be able to give them some advice along the way and make them justify what they're doing for you. We have a spending problem, not a revenue problem. Thank you, Mr. President. [LB331]

PRESIDENT FOLEY: Thank you, Senator Hughes. (Visitors introduced.) Continuing debate, Senator Blood. [LB331]

SENATOR BLOOD: Thank you, Mr. President. Fellow senators, friends all, I stand against Senator Erdman's bracket, motion to bracket, and in favor of LB331. Senator Erdman, you are indeed stouthearted and determined and I respect that. I do not agree with many of the things that you said. And one of the things that I think is being created that I've heard over and over again on the floor today and last night is that there tends to be an us-versus-them demeanor, and I think that's really unfortunate. We had so much of that in the first 30 days, especially. We need to work together and I don't see a lot of that happening yet. I see efforts towards that, but I think we can do better because it isn't us against them. It's all of us working for the greater good of Nebraska. And I know many of you feel very strong about certain issues, but let's find our middle ground and make sure that we move forward. With that said, I listened very carefully to what's been said about the university system. And one of the things that I haven't heard mentioned that I think is really important is that there has been explosive growth of research institutions in India and China. Did you know that? Nebraska has to be a vital driver of the competitive economy through campus-based research and innovation. We have to be. And we are. Research contracts and grants at our colleges pump hundreds of millions into our economy. This research is creating knowledge. Can I have the gavel, please? I can't even hear. May I have the gavel, please? Thank you. It's pumping hundreds of millions into our economy, and this research is creating knowledge for technology, farms, businesses, and medicine. And this is going to shape and move

Floor Debate  
May 04, 2017

---

our state forward. Keep this in mind. Are you willing to give this money to China and India? In support of what the Governor has said he wants for Nebraska, we have to support our universities because, after all, Nebraska's greatest natural resource is the minds of our children. Again, I stand against the bracket motion and in favor of the bill. Thank you, Mr. President. [LB331]

**SPEAKER SCHEER PRESIDING**

**SPEAKER SCHEER:** Thank you, Senator Blood. Those waiting in the queue: Senator Groene, Bostelman, Schumacher, Lowe, and others. Senator Groene, you're recognized. [LB331]

**SENATOR GROENE:** Thank you, Mr. President. I agree with Senator Hughes on what he was saying. This isn't us against them. That university belongs to us. It isn't them. It's us. We decide as a people where we want to fund and how big we want it to get. University creates no economic growth. We do, the people of Nebraska and the free enterprise system. I'm in agriculture. I've been in it for 40 years. I can't think of much of an innovation that came from the land grant college through the Ag Department that expanded the agriculture to 100 bushels an acre to 400. It all came from genetics. It all came from chemical companies creating new compounds. It came from the manufacturer who put GPS in our combines. They usually catch up. None of my ancestors got on a boat to come here to build a university. They came for the freedom to do it ourselves. Yes, I went to the university. I got in and out as quick as I could in eight semesters because I wanted to go on with life. Education is a tool. It is not the end to it all. That said, we have an absolute right to examine the funding for that institution. We have an absolute right to demand what are you talking about, raising tuition. What are you talking about? You're a land grant college and you talk about cutting extension. I have here an article about Senator...Harvey Perlman when he retired. He was guaranteed a job at the age of 73 at the highest paid...at the level at the highest paid law professor that if he wanted to keep teaching, guaranteed. He was also guaranteed a year's sabbatical for a 73-year-old man at his high...at his pay of \$350,000. Now you say, well, we had to do that. Let's put it in perspective. Three hundred and fifty thousand dollars is more than 200 of our 245 school districts got in state aid. Put that in perspective. Dollars add up, but he's special. He's a professional student. Senator Briese, his handout is great. That's the one I was looking for, couldn't find. We're sixth in the nation per capita, man, woman, baby, of \$394 per individual of support in tax dollars to that system, to higher education. That's everybody. Do I like the university? You're darn right I do. I have their degree somewhere in a pile. But I would appreciate some humility from them. They are our employees. Work with us. You're overstaffed with administrators. You're overstaffed with trips. Work with us. One more point on that last amendment we adopted, if you look on your green sheet, it says we have on...on your agenda we have \$266 million would be at the end of '18-19 and the Cash Reserve is at 3 percent. What we are doing here to balance the budget is an accounting maneuver. We created \$43 million out of thin air by lowering the Cash Reserve, by

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

Floor Debate  
May 04, 2017

---

thin air. I asked the Fiscal Office, why don't we transfer \$43 million more from the rainy day fund? In real dollars, let's do this budget in real dollars, not an accounting maneuver. [LB331]

SPEAKER SCHEER: One minute. [LB331]

SENATOR GROENE: That's what this is. We all of a sudden made up \$43 (million) of the extra \$53 million by an accounting maneuver instead of facing reality and drawing down our savings account. Senator Erdman is right. Five-point-nine percent growth from what, from the decrease? That 5.9 percent won't get us to where we were for a couple of years. And then to catch up with...fell back in the reserve and to create the additional spending we will do into the future, 5.9 percent growth isn't enough. I'm a numbers guy. It ain't hard to figure this thing out. We need to cut. We need to look at our expenditures. There's a lot of ways to do it without claiming you can't crawl back out of the hole. We're Nebraskans. Ask any farmer who's had a bad year. The next year he's right at it again. We got to build this thing, the university, if we cut it a little bit? [LB331]

SPEAKER SCHEER: Time, Senator. Thank you, Senator Groene. (Visitors introduced.) Returning to the queue, Senator Bostelman, you're recognized. [LB331]

SENATOR BOSTELMAN: Thank you, Mr. Speaker. Good morning, Nebraska. Good morning, constituents. Good morning, fellow senators. I wanted to read this before. The other day I got an e-mail from one of my constituents from the district and he's a farmer and he sent it to me before the end of last month when he was paying taxes. And then he just e-mailed me here a little bit ago, and I think it's kind of to the point of everything we've been talking about. And I just want to read it to you and please take note of what he has to say. It says he's...I'm wanting to voice my concern and disgust on taxes on agricultural land. Not sure if, Mr. Bostelman or Governor Ricketts, if you understand that I hope...and I hope you do, the grave robbery and fleecing that is being done to the agricultural landowners over the past seven or so years. My taxes used to be halfway manageable to pay but, after tripling, tripling over the past several years, it is unsustainable. I do realize that when we had \$7.50 corn and \$14 beans, everybody wanted to pile on and get their share of the pie. But is it just...but as I just looked at my local elevator prices, corn is at \$3.05 and beans are at \$8.58. That time has come and gone but everyone is still trying to take the pie, tax man, the seed dealer, bag of corn is \$300, and all other expenses, they've not gone down. As my local banker sits down with me and figures out my financial statement for the year, he always says, you have this much in assets, but at the end he laughs and says, that is only if you sell everything, which I do not plan on doing. I would like one of my kids to take my family farm over, maybe. I used to want that but I'm not sure I want that anymore. I paid my first half of taxes yesterday--I believe it came in on the 28th is when this e-mail came in--which was \$12,500 for the first half. And next to me was a very elderly lady whose husband passed away

Floor Debate  
May 04, 2017

---

several years ago, and they were...and their land has been in the family for many years. And seeing her write a check for the first half payment of \$19,500 that I call fleecing by the government. I understand taxes, but I rely on the land...but to rely on the landowners as much as we do is robbery and unsustainable for the state. Land values have gone down over the past several years but taxes remain high. I do not see ag land selling for prices they once were, so taxes should go down. The state senators from Omaha and Lincoln do not care about the farmers. They have too much control compared to the rural senators and something must be done or it will fall flat...something must be done or it will fall flat on its face. My brother is a bank loan officer for a rural bank in Nebraska and he said there is a lot of farmers flat-out broke and losing money. Soon the bankers will be...are calling...are going to be calling in their markers and want their money back and not lending any more funds. He said many bankers are taking pictures of farmers' equipment. And when that happens, that means nothing good, I can tell you. So you ask a solution to the problem. Make everyone share the burden and raise sales tax on everything and everyone so we all share the burden. The biggest thing that needs to be done is government spending and tightening the belt. Again, the biggest thing that needs to be done, he says, is government, control government spending and tighten the belt. When I stood in line to pay my taxes, writing my check for \$12,500 and the old lady for \$19,500, and earlier reading in the Wahoo paper a picture of an officer, a person, an officer from OPPD... [LB331]

SENATOR HUGHES PRESIDING

SENATOR HUGHES: One minute. [LB331]

SENATOR BOSTELMAN: ...giving a Saunders County tax--thank you--Saunders County tax lady a check for \$311,000, how much is enough? My dad retired from Saunders County as a worker. When he started, they had two bridge crews. Now they have zero. And everyone could run equipment. They have a skeleton of what crew...they have a skeleton of crew members they used to have. Currently, they only have one and a half people running their equipment. Don't know where the half is. It's...and it is sad to...and it is a sad state of affairs. Maybe the county should pay for some good heavy equipment operators instead. Please help, because it cannot be sustained as I keep thinking of the elderly lady next to me writing the check for \$19,500. That is a shame and the fleecing that is happening in this state. Please help. And this morning he wrote: What a shame. Seed corn down again today. It is barely above \$3... [LB331]

SENATOR HUGHES: Time, Senator. [LB331]

SENATOR BOSTELMAN: Thank you. [LB331]

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

Floor Debate  
May 04, 2017

---

SENATOR HUGHES: Thank you, Senator Bostelman. Senator Schumacher, you are recognized. [LB331]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. When I pressed my button I was going to say, gee, I don't think I've heard a better discussion on the floor of the Legislature all year. It almost appeared as though it was the awakening, particularly among the freshman class, who now I think begin to see the tip of the iceberg of what you're going to have to deal with. But since I pressed my button my optimism has decreased. This is probably the most important discussion that we're going to have all year, because it deals with the root of a lot of things. And look at all the empty chairs. Now I don't know if they've been drug out into the lobby or if they've gotten bored and sitting down in their office or if they've got an important meeting with some constituent. I don't know, but this is pretty pathetic, because this is where we come to enlightenment and the ability to grasp the burdens you will face. I've told you many times I'm out of here. We've got enough cash reserve to get me out of here, but not you. And I voted against ceasing debate on the earlier motion because you have to have an opportunity to vent, to articulate smart ideas and stupid ideas, and trace them out among the body as to where they take you. And you aren't going to do that in an hour or two or three and it wouldn't kill us to spend two or three days doing it because it's only from that discussion that we learn. And I compliment Senator Erdman for keeping the discussion alive. Ultimately, after we've had plenty of venting, plenty of new ideas, like Senator Friesen has mentioned a couple of times on that subchapter S thing, like been mentioned by Senator Kolowski about, you know, this is a revenue problem and the Revenue Committee has blatantly failed to do its job this year. All those things should be debated and their truth sought out. This is a darn good debate and a really necessary one to start you thinking about the immensity of the burden you have. We're talking higher education; we're talking this and that. Well, you know, you can only let the air out of a tire so much before you ruin the tire. Are we letting the air out of the tire so much? Would we build three state colleges if we were to start from scratch today? Probably not. Would we devastate three communities were we to shut them down? Probably, yes. Can a little state like Nebraska afford a full-service university? Can Kansas? Can South Dakota? Can Wyoming? Can Iowa? Maybe we should be working together to consolidate some of that. But, whoa, that means a reduction in funding in Lincoln. What impact does that have on the Lincoln economy? These ripple-effect questions are damning but they've got to be thought through and their magnitude determined. And, guys, you're going to have so much fun with it because you're going to have to do it, just like we have to balance the budget. You're going to have to figure out that balance and it's going to make people mad on all fronts and that's your job because, if you do a good job... [LB331]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: One minute. [LB331]

Floor Debate  
May 04, 2017

---

SENATOR SCHUMACHER: ...in four years, whether you're reelected or not, you can walk out of here with satisfaction. And if you're reelected, you got eight years to do a great job. But today has been healthy except for the fact that the place is emptying out. This is good. Let's not keep this discussion short. Ultimately we're going to have to do the responsible thing after we've vetted ourselves. We're going to have to pass this budget. And Senator Stinner and the Appropriations Committee have, for today, done as best as they could considering the lack of help from the Revenue Committee and the fact that we have no long-range plans, no answer to where is the state going. That's something we've got to work on. I got a little time yet to work on it in my time here. You got a lot more time. Folks, this is a good discussion. Vent. Put your best ideas out. This is the time to do it. Thank you. [LB331]

PRESIDENT FOLEY: Time, Senator. Thank you, Senator Schumacher. Senator Lowe. [LB331]

SENATOR LOWE: Thank you, Lieutenant Governor. Well, as Senator Schumacher said, we have to vent our smart ideas and our stupid ideas, so we've heard our smart ideas from Senator Schumacher and here goes the stupid ideas. You know, as a family, we budget. We budget because we know what we're going to make, or at least we have a great idea of what we're going to make. I think I said this last night, but we don't budget by what we hope we're going to make next year. If we do, each and every one of our families are going to fail. We take a look at what we made last year. We take a look at what we made the year before. And it's probably a good idea because that's probably what we're going to make this year with maybe a little adjustment. We do the same in business. It's very important to be competitive and to work that way. You don't budget your business and you don't hire employees because they're the best. You hire them because they're the ones you can afford. We all want the best manager that our money can buy, but it's what the best money that our money can buy is. We can all...you know, I'm a state senator. I deserve a Cadillac or a Lamborghini because I'm a state senator. Universities don't need the best because they are our university. They need the best that our money can buy and that's it. We can't hope for the best. We have great people working for us from the ground up. Let's look from within. Let's not go without and hire those. But our...you know, you look at the highest paid people in the communities and most of the time they're school administrators. Those are public employees, public employees are the highest paid. Why is it okay? Because we're talking about our budget and we're talking about reducing the budget. We're not talking about cutting the budget, truly, we're just talking about reducing the budget. And why is it okay for farmers and ranchers to sell their equipment to pay their taxes and to feed their families? Once they sell their equipment and their land, they no longer have it. Why is it okay for them to do that but it's not okay for government to make cutbacks? Our farmers and ranchers are doing that now. Our businesspeople are doing that now. But it's not okay for our government to cut back. That's what our people are asking us to do. They're asking us to make a slight cutback so that they can survive, our people can survive. Please, let's listen to the people of Nebraska and let's make some

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

Floor Debate  
May 04, 2017

---

cuts this year because I don't want to come back this summer, I don't want to come back next summer. I want the people of Nebraska to survive. Thank you, Mr. President. [LB331]

PRESIDENT FOLEY: Thank you, Senator Lowe. Senator Friesen. [LB331]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. When we talk about our tax burden here, I was hoping my urban colleagues would join in, but I'm not hearing anything. When we talk about cutting spending...and I will talk as a small business in rural Nebraska and being in ag still makes me a small businessman just like the guy on Main Street. And when our economy out there goes down, theirs goes down, too, and they have no safety net there. They have been known to cut their budgets 10, 15, 20 percent to survive. And we're telling the people we can't even cut 1 percent. We're adding 1 percent in spending. We're incapable of cutting even 1 percent of our budget when they have looked at budgets and had to cut 10, 15 percent, 20 percent, let employees go. When I'm looking through and we talk about our tax burden, let's look at some numbers. Who would guess that per capita, where would you guess the highest per capita income in a county would be? Grant County? Grant County pays the highest per capita income in the state. Next would be Cheyenne County, number two. Number three is Hamilton County where I farm, the highest per capita income tax collected in the state. Let's go to property taxes. The number one is Hayes County. We can go down a long list of rural counties here: Gosper, Blaine, Arthur, McPherson, Wheeler. Clear down here at 33rd is Hamilton County. There's a lot of counties per capita pay a lot more than Lancaster County or...we can total up income, sales, and property taxes. Hamilton County is right around \$5,000 per capita in those three taxes. Lancaster County is around \$3,000. We've been carrying this state for the past five, seven years. We've seen spending growth in the 6 percent, 5-6 percent range. And now when the revenues drop, when the golden goose can't lay its egg, we can't cut 1 percent. We're used to spending 5 and 6 percent increases regularly. All the other states in the nation were suffering through a recession and Nebraska cruised on, spending at 4 and 5 percent increases, all based on agriculture. And you talk about our university system educating the people that create all these new gadgets and tools. But if us in agriculture can't afford to buy them, it doesn't do us any good. If small business out there can't afford the technology, what good did it do to create it? Small business is what drives this state. Small business is what creates the jobs, one or two at a time. It's not big corporations or big business; it's small business. And I will maintain that the tax load, whether it's income or property taxes, is too large and we're unwilling to address our spending problem by even cutting 1 percent. That, I think, is our failure. [LB331]

PRESIDENT FOLEY: One minute. [LB331]

SENATOR FRIESEN: This isn't a revenue problem. I'm not going to go back to my constituents and say the Revenue Committee failed. When the economy is in the tank, I'm going to raise your

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

Floor Debate  
May 04, 2017

---

taxes because we didn't raise enough for government to spend. That's not the message I'm taking home. Thank you, Mr. Lieutenant Governor. [LB331]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Bolz. [LB331]

SENATOR BOLZ: Question. [LB331]

PRESIDENT FOLEY: I'm going to allow the debate to continue, Senator Bolz. Senator Brasch, you're recognized. [LB331]

SENATOR BRASCH: Thank you, Mr. President. And thank you, colleagues. I've waited in the queue twice now with the question being called before I could get on the mike. And I do want to thank my colleagues for their attention this morning, and those watching in the second house. This is, indeed, a very critical point in our legislative session. The concern is that the revenues, the monies that comes from the second house that are watching, are not enough, not enough to pay for the multiple, multiple layers of government, as we speak today, of all the entities that we have designed for the well-being of this state. And I'm not to diminish their value or their importance, but it comes back to those monies, those wages, the wherewithal on which government stands. And revenues are low. Ag economy was the first to see the downfall and the decline in their income. When ag does well, the rest of the state does well. When I first took my seat, we were nearly a billion dollars in the red. We did borrow from the Cash Reserve nearly \$200 million. We also had ARRA funds that came into play. And then we also experienced a one-time capital gains federal exemption where money was moving. The farm commodities had peaked, unprecedented. And when we did, we had many, many benefactors of that temporary wealth that the second house was experiencing in agriculture, which is no more. But during that time we were generous, very generous with education and the university, the university at Kearney, the extension division, the Buffett Cancer Center, Curtis, new College of Nursing in Norfolk, and UNO Athletics. I would say that athletics should not be in question here because I believe their revenues should be financed by ticket sales. That's only logical. Let ticket sales finance education. And with the university I'll have to tell you a little story. Then Chancellor Harvey Perlman and a group of individuals from the university, and I commend them, they were going across the state having small town hall meetings, meeting with people. They came to West Point, Nebraska, in Cuming County, which I serve, and Chancellor Perlman says to me quietly, he said, you know the university owns an awful lot of farmland. I wish I would have written the number down. I'm waiting for a phone call. And he said, we're talking about maybe turning it back into the hands of private people. Yes, they collect rent and, yes, on some, and, yes, some is in a trust but they can't do anything with it, but they do have some finances. And if they would have sold while prices were high, maybe they'd not be asking, you know, what their ask is today. And so following that quiet luncheon with him and now Chancellor Green, I asked them again,

Floor Debate  
May 04, 2017

---

what about your thought of taking a little pressure off of taxes and returning some of the farmland to private enterprise. And they discussed it and they showed me on...I have a big map under my glass table of where the...where this land is. And they've done different things. And now I'm wondering, you know, as the farm economy is truly struggling and I hear my colleagues dashing off, saying how important this is and that is and this and whatnot, I don't diminish that. But when we stood on the floor, it seems like yesterday, saying what a crisis the farm economy is in, it flatlined. It does matter. It does matter where the money comes from because it's no longer there and you can't get blood from a turnip. [LB331]

PRESIDENT FOLEY: Time, Senator. [LB331]

SENATOR BRASCH: Thank you, Mr. President. [LB331]

PRESIDENT FOLEY: Thank you, Senator Brasch. Senator Hilkemann. [LB331]

SENATOR HILKEMANN: Thank you, Mr. President. We're all in this together. We've talked about that. I think it's absolutely vital that we keep our university strong, and I said that earlier. You know, I hear the argument about property taxes and I couldn't agree more. I think our property taxes are too high. Senator Friesen, you mentioned that our urban colleagues haven't entertained this, been a part of this conversation. Well, I think I've shared with you over several years ago I happen to have some interest in farmland in Wayne County, Nebraska, and I also have a nice home in Omaha. My home in Omaha is worth half the price of my farmland in Wayne County and I pay double the property tax on my home in Omaha than I do on the property in Wayne County. It is not that we in the urban areas get a pass on property taxes. Our property taxes are too high as well. And we need to continue to work and we need to work together, but we need to have a strong university. When I hear people say...and I know that we're more on this, whether we're going to bracket this motion. We can't bracket this motion. We need to have a budget. We need to move forward. We need to...you know, we've taken a little flack from the Appropriations Committee, and I'm going to tell you that, you know, every committee works hard. And I don't say we worked any harder than anybody else, but we worked together to come up with a lot of compromise. This is not an easy budget to put together. Is it a perfect budget? No. I'd...there are...I would have...I had a lot of things I would have cut more than what we have. I'm proud that we did not cut provider rates and I want to say right off the bat, our Chairman knew a lot of people who owned nursing homes in rural Nebraska who are providing services and are losing money every day and we continue to cut provider rates. We are all in this together and...well, thank you, Mr. President. I guess I just...what I wanted to say is, is that you can...every one of us can look at the budget and we could say I wish we weren't spending so much there or I wish we'd have cut that or where we could have added to here or we could have taken from here, every one of us, but collectively it's the budget that we came up with and I think

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

Floor Debate  
May 04, 2017

---

it's workable. You know, we talk about our revenues are going down but yet if you look at page 23 of our budget book, historically, the average is an increase of 4.9 percent. We've been above average, 7.3 percent on above-average years. And the years that we've been below average, we've been at 1 percent. You know, will our growth continue? I think our growth will continue. Why are we pessimistic? We're Nebraskans. You know, I...my dear father-in-law was a farmer and one day we were talking about faith and issues of it and he talked about...never forget he talked about for him faith was like putting that seed in the ground and every year... [LB331]

PRESIDENT FOLEY: One minute. [LB331]

SENATOR HILKEMANN: ...it's reborn, you get new growth, and you look forward to that. He loved the planting time, to see new growth. Yes, every business goes through slumps or years when it's not so good. But overall we have to remain optimistic and we need to keep moving Nebraska forward. We're not going to go forward if we go...start cutting willy-nilly on everything. We can't throw our university back to we have a ten-year...takes them ten years to catch up again. Are our administrators overpaid? I don't know. I always thought football coaches were overpaid. We've been...I always thought, what ironic thing do we tell our people, do the best and then if you don't do the best, we'll pay you \$10... [LB331]

PRESIDENT FOLEY: Time, Senator. [LB331]

SENATOR HILKEMANN: ...or we'll pay you \$3 million... [LB331]

PRESIDENT FOLEY: Time, Senator. [LB331]

SENATOR HILKEMANN: ...for leaving. Thank you. [LB331]

PRESIDENT FOLEY: Thank you, Senator Hilkemann. Senator Hughes. [LB331]

SENATOR HUGHES: Thank you, Mr. President. Good morning, colleagues. And this will be the last time that I talk on this subject. I want to make it clear that I'm not anti-university. They were the target of opportunity this morning and I took it. But you, if you look at the three top things that we spend money on in the state of Nebraska, and in this order, HHS, K-12 education, and the University of Nebraska, if we would do just a small percentage cut of each of those budgets, we would have solved our problem. That's where the bulk of our money goes rather than taking, sweeping all of the cash funds of taxes that were collected for a specific purpose. One point I do want to make when we're talking about how great we need to make our university or how well we need to treat our citizens who are disadvantaged, these are our tax dollars. And I

Floor Debate  
May 04, 2017

---

appreciate Senator Lowe's comments tremendously. You know, we want to hire the best, but these are our tax dollars. These are our dollars. We need to treat them like our dollars. I've had the opportunity to travel the world and I've seen a lot of beautiful buildings and they were generally built with someone else's money. This building is a beautiful building, but it was built with taxpayer dollars. We can have a beautiful university but it's being built with someone else's money, our money. We need to keep that in mind. We have a spending problem, not a revenue problem. Thank you, Mr. President. [LB331]

PRESIDENT FOLEY: Thank you, Senator Hughes. (Visitors introduced.) Senator Bostelman. [LB331]

SENATOR BOSTELMAN: Thank you, Mr. President. I'd like to continue and kind of finish the thoughts that I had from the...from my constituent this morning talking about a couple things. I would agree with Senator Hilkemann on the fact that property taxes in our homes and our towns and cities are too high as well. But we've, on the ag side, on our ag land, we've been paying too high of taxes for a considerable amount of time. And when we're over 100 percent in increases over the last few years, something needs to happen, something needs to change. Talking with the ag industry, another thing, we're not very optimistic in the future where we're looking at and maybe shine a little bit of light on ag community, where we're going with grains and that. We have...I've talked to some senior, I guess you'd say, businesses, leadership in the businesses, in grain storage especially across the state, and we've got a lot of grain in storage right now. So unless there's something happens in Central/South American where there's a big knockdown on grains, soybeans, something like that, are we going to see our prices go up? I don't think so. I think we're in a place where we're not going to see, as my constituent wrote and e-mailed me, we're not going to see a rise in grain prices again where we're going to see prices back to where they were before, to see in the \$7 corn, \$14 beans. That's not going to happen. We're right at that \$3 mark and it takes a lot more than that just to raise it. So let me finish up what he was speaking of. I think it's important. I think we need to listen to it because this is the reality of what we're facing out in the rural area, our farmers, because they're hurting. And property taxes is one of those areas; input costs are one of those areas. Prices aren't going down. Taxes are high. They're struggling. So when he was paying his \$12,500 for his first half of his property taxes for this year, he says: Please help because it cannot be sustained, as I keep thinking of the elderly lady next to me writing the check for \$19,500. That is a shame, the fleecing that is happening in this state. Please help. Then this morning he writes: What a shame. I see corn is down again today. It is barely above \$3 at the local elevator, not sure if the...and I'm not sure if the people realize that it takes \$4, \$4 corn nowadays just to break even. So you do the math and let those senators from the city understand this. Price for corn today is just over \$3 a bushel. It takes over \$4 to grow it. Do the math. We don't make it. They don't make it. Nebraska has the seventh-highest property taxes in all the states. He says, well, I've got to get back to work because, you see, in order for me to support farming, I have a full-time second job in the city. Let those senators from the city

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

Floor Debate  
May 04, 2017

---

understand this also. Not only do I have my farming operation, I've got to take a second job, a full-time job in town, to make enough money so that I can pay my taxes and have a living and keep my farm operation going...his farm operation going. He says: It will be interesting how many farmers go broke in the next couple years with prices of commodities today. Talk with the bankers because they will tell you what's going on. Thank you, Mr. President. [LB331]

PRESIDENT FOLEY: Thank you, Senator Bostelman. Senator Lowe. [LB331]

SENATOR LOWE: Thank you, Lieutenant Governor. You know, my next-door neighbor just down the road about a mile and half, he's not going to give his children the farm. He's going to get rid of it because he doesn't want to saddle them with what he's had to live with this last few years and he's getting ready to retire. Trouble is, it's not worth what it was just a few years ago. His equipment is older. Farm prices are down. He's going to take a bath on his own farm that has been in the family for 100 years. That's tough for people but yet we don't want to keep our wages the same for the government officials for a couple of years. They still have their jobs. He will not. His children will not. They have to go out and find something else from somebody else. And I'm not dogging the university also. My children all went to either the University of Nebraska at Kearney or the University of Nebraska-Lincoln, and they're doing great in life. I was a Kearney State graduate. University at Kearney is a great college and there's rumors that it may take the worst hit out of this budget cut of all the university campuses. That's not right. Per capita, the University at Kearney does a great job at what it does. Doug Kristensen is a good chancellor. He's a good man. He was Speaker of the House here. He understands what we are going through. You know, we got to think about what we're doing and what we're saddling our taxpayers with when we decide to cut budgets but still give them more money than we did last year. We need to start thinking about reducing spending so that our farmers and ranchers and our small town people can survive. If Senator Watermeier would like the rest of my time, I'd like to yield the rest of my time to Senator Watermeier. [LB331]

PRESIDENT FOLEY: Thank you, Senator Lowe. Senator Watermeier, 2:30. [LB331]

SENATOR WATERMEIER: Thank you, Mr. President. Thank you, Senator Lowe. I appreciate that. I haven't had a chance to get on the mike yet. I had several appointments this morning, was late getting here. Good morning, Nebraska. I needed to kind of state my case here a little bit. We had a controversy last night. The way...as it seemed, people were upset about a vote taken on the budget. It didn't pass unanimously. That's the end of the world--not really in my mind. These two rounds of debate are critically important that we tell and we listen what's going on in the state of Nebraska. My votes inside of Appropriations were against all the budget bills except one, I believe, and I think that was a transfer and I felt obligated to go ahead and vote for the transfer bill because I feel obligated to balance the budget that we bring forward. And I'm not really in

Floor Debate  
May 04, 2017

---

favor of bracketing this bill, but I am in favor of the discussion that we're having. I just feel like it was more responsible for me to, and I voted for the last amendment, to pass the amendment that would talk about changing the reserve because that will require us to backfill that in the next time we deal with the budget, in the next biennium. Taking out of the Cash Reserve would have not been the best option in the fact that we would not have had to refill that up, that \$40-41 million. But part of the frustration I had, and I've had a lot of members come and talk to me about why I didn't vote unanimously for the budget bill, was we had a lot of discussion in there. We had brought several chances to cut the budget and it usually died 5-4, which is fine. That's the majority rules. That's the way it should be. And I can't honestly tell you that I would have a good, solid amendment to bring to the floor to offer for an additional cut. But in general, I feel like we need to cut more and I don't like just 10 percent across-the-board cuts. In my opinion, it's easier to cut out a program that we don't need. But that time, for my mind, has passed. The appropriations process does the very best it can. If we have to do it on a special session, that will be ugly. I would prefer not to do that. But my position has been that I supported the last amendment we passed because I felt it was more...it was a better situation to take it out of the reserve, extend the reserve down to 2.5 or even if we have to go to 2, because we'll be forced to backfill that two years from now when it comes back in the next biennium. So I can't support the bracket motion today. I'm wavering yet on LB331 and the whole budget package. But I was interested last night. My phone rang off the wall on the way home, and again this morning, and I was somewhat fearful that it would be people furious with me: Senator Watermeier, you can't pass the budget, you have to pass a budget. But all the calls were in favor of what happened last night. [LB331]

PRESIDENT FOLEY: Time, Senator. [LB331]

SENATOR WATERMEIER: Thank you, Mr. President. [LB331]

PRESIDENT FOLEY: Thank you, Senator Watermeier. Senator Friesen. [LB331]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. You know, we've talked a lot about education and funding and in the past I have never once said that we need to cut anyone's spending. I was just looking at changing how we fund it. But when we start getting into the university and the dollars that are there, you know, I think we talk about the University of Nebraska system and although I'm not an "alumni" of that, I'm still...I'm very proud of this state and what it's done. I'm a big Husker football fan. But you got to remember that Creighton College and Wesleyan are, you might call them world-class universities that do a good job of educating and they don't take any state fund, General Fund dollars. So we can have a good education system in this state and not necessarily have to fund it with tax dollars. But again we talk about property taxes. And, you know, Senator Hilkemann, I think, you know, if I would

Floor Debate  
May 04, 2017

---

move my house to Omaha, I think I'd probably be paying the same amount of property taxes you are on your house. I get it. Location, if I'm...right now I'm living in the country but again I'll explain, if Warren Buffett picked up his house--and it's a modest house, it's nothing fancy, he can come live next to me--I'm still going to pay about 10-15 times more than he's going to pay in property taxes. It's how we measure wealth. And I agree the urban problem is just as great. You have a young homeowner that they get married and start having kids and they want to buy a house and they're on a wage and suddenly their property taxes and valuation rise enough that they can't make those payments anymore. I get that. I want to help that, too. I'm not focused on ag. I want to keep those homeowners in their home. I want them to be able to buy a house and I don't want to have to pay..make them pay for it three or four times over. When you see the rise that there's been and down the road, for instance, if ag land would drop like it did in the '80s and we drop by two-thirds, can you imagine what that's going to do to the TEEOSA budget? That's what it did the first years of my farming career. Land prices dropped by two-thirds. They went from \$3,000 an acre to \$1,000. Talk about a revenue shock. So when you look at ag land values and if the perfect storm would come together--I'm not predicting this, I think ag land will stay stable--but if the right things come together, if interest rates would suddenly go up like they did in the '80s and they get to that 18 percent level, you will see ag land values crash and you'll see the TEEOSA formula explode. And again, I'm not an economist. I just look back historically at what has happened and in my career as...in farming and in small business, I have seen when I started we were at the peak of a four- or five-year runup. This year, this last runup that we've had in agriculture has been unprecedented. I will never see it again. But what happens after each spike, it seems like the higher we spike, the longer the tail is on the downside. And so as I look forward to agricultural production, unless something drastic happens, I see a long tail that's kind of flat and we in agriculture are going to see some spikes here and there in our income and that will keep us alive, but it's not going to produce a bump in income to the state. [LB331]

PRESIDENT FOLEY: One minute. [LB331]

SENATOR FRIESEN: And so, therefore, I look ahead and say that, you know, if you're looking for agriculture to bring that 5 percent growth to this state, it's not going to happen. There's too much uncertainty right now in trade and those kinds of issues at the federal and international level, that it has me very concerned about where we may end up with prices in general in the next couple years. Thank you, Mr. Lieutenant Governor. [LB331]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Brasch. [LB331]

SENATOR BRASCH: Thank you, Mr. President, and thank you, colleagues. I just wanted to finish where I had started earlier. And before I do that, for our good friend Senator Hilkemann, is real estate homes are taxed at 100 percent on the farm, off the farm, Omaha, Bancroft. A home is

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

Floor Debate  
May 04, 2017

---

a home and taxed at 100 percent. It is not ag land on your potential of what you make. And if that's the direction we're going on what farmers aren't making but what they should be making when commodity prices are low, then I've had several constituents say that we need to also perhaps base taxes on professional individuals. You're a former medical doctor. Maybe it's what you could be earning as a doctor, with a law degree, with your...and there are charts for careers and what you can make in those careers. So what you can make, you know, is that the right thing to do or is it what you're actually earning? That's what we'd like to see is what we're actually earning taxed, but homes are homes at 100 percent. I wanted to clarify that. And also this morning I wanted to tell my good friend/colleague Senator Groene--he's the fiscal conservative-- I had a constituent call and tell me that they're alarmed because the K-12 system believes they're going to see their funds cut. So now they're doubling up in administrators. They're getting two principals instead of one. They're planning ahead for the day that we wake up and realize that we can't and won't give them their wish list. So we need to put things like that on our radar. These are times when we look at this budget, back to the budget, is that we need to scale back not to what we hope at this point but what...how we can go back to last year. So I yield the rest of my time to Senator Erdman. [LB331]

PRESIDENT FOLEY: Thank you, Senator Brasch. Senator Erdman, 2:20. [LB331]

SENATOR ERDMAN: Thank you. Thank you, Lieutenant Governor. Thank you, Senator Brasch. Well, we've come here almost till noon. We've had an opportunity for people to share their ideas and concerns. We haven't solved a thing. I would contend that adopting last year's budget and adding back those things that need to be added back in from the rainy-day fund is the logical, common-sense thing to do. And as I've said in the past, I'll say it again, common sense is a flower that doesn't grow in everybody's garden. I seem to have some that I've been cultivating for awhile, so if you need some, I can loan it to you. But we've had fair discussion. As Senator Schumacher said, this is very important, the most important thing we can discuss. It got awful quiet in here. That's great. A lot of people are missing. Senator Chambers is not here. He's watching. I understand that. After having said that, Lieutenant Governor, I withdraw the bracket motion. Thank you. [LB331]

PRESIDENT FOLEY: Motion is withdrawn. [LB331]

CLERK: I have nothing further on the bill, Mr. President. [LB331]

PRESIDENT FOLEY: Senator Wishart. [LB331]

SENATOR WISHART: Mr. President, I move to advance LB331 to E&R for engrossing.  
[LB331]

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

Floor Debate  
May 04, 2017

---

PRESIDENT FOLEY: Members, you've heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. The bill advances. Items for the record, please. [LB331]

CLERK: Mr. President, Enrollment and Review reports the following bills as correctly engrossed: LB259A, LB451, LB578, LB647, LB647A. I have amendments to be printed to LB632 by Senator Larson; Senator Pansing Brooks to LB289. Mr. President, a new resolution, LR127 by Senator Krist. That resolution will be laid over. I have a communication from the Speaker suggesting that LR127 be referred to Reference for referral to standing committee for public hearing purposes. And then I have a Reference report accompanying that. (Legislative Journal pages 1331-1336.) [LB259A LB451 LB578 LB647 LB647A LB632 LB289 LR127]

Mr. President, priority motion, Senator Kuehn would move to recess the body until 1:30 p.m.

PRESIDENT FOLEY: Members, you've heard the motion to recess. Those in favor say aye. Those opposed say nay. We're in recess.

RECESS

PRESIDENT FOLEY PRESIDING

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

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

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

ASSISTANT CLERK: Not at this time.

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Riepe, for what purpose do you rise?

SENATOR RIEPE: Thank you, Mr. President and colleagues. I would ask to take point of personal privilege.

PRESIDENT FOLEY: Please proceed.

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

Floor Debate  
May 04, 2017

---

SENATOR RIEPE: I have two comments today. First, I want to inform you that earlier today the Department of Administrative Services rejected both bids for the Eastern Service Area for Child Welfare. The Nebraska Families Collaborative was awarded the contract in early April. In mid-April, Magellan filed a protest to Nebraska Families Coalition RFP award. It is my understanding that the Department of Health and Human Services, Department of Administrative Services had to reject both bids as reviewing the protest could lead up to a gap in services in some of our most vulnerable children starting in July, the Division of (Children and) Family Services intends to negotiate a one-year emergency contract with Nebraska Families Coalition starting tomorrow morning. Director Weinberg has assured me that since the original contract was already been awarded, an emergency contract should be in place almost immediately. Second, Mr. President, I would like to also to announce tomorrow, Friday, May 5 at 8:15 a.m. in room 1510, a presentation, a briefing on the market rate survey for all senators and staff. Lisa Knoche, the Ph.D. director of the Nebraska Academy for Early Childhood Research, and Greg Welch, associate director of research and evaluation from the Buffett Early Childhood Institution will discuss the methodology of 2017 market rate survey. Director Doug Weinberg of the Division of Children and Family Services will discuss the implications of the survey. We also have a briefing of the new fiscal note from Liz Hruska from the Legislative Fiscal Office. I hope that you'll be able to attend. We want to see you at this briefing tomorrow so that we have information on this particular legislative piece that we'll be talking about shortly. Please stop by and speak with me if you have any questions about the Eastern Service Area contract or the briefing tomorrow. Thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Riepe. Senator Krist, for what purpose do you rise?

SENATOR KRIST: Point of personal privilege, please.

PRESIDENT FOLEY: Please proceed.

SENATOR KRIST: I think it's interesting...or I think it's...it would be good for us to understand...if Senator Riepe would yield to a question. It would be good for us to understand what the consequences of that contract problem is. Are we looking at funding going away at a specific date? Are we looking at services just being discontinued by NFC because by law that is our service provider in the Eastern Service Area. Could you respond to the question?

PRESIDENT FOLEY: Senator Riepe, care to respond?

SENATOR RIEPE: Yes, I will. And it's my understanding...we had a briefing this morning with Courtney Phillips and Doug Weinberg. It's my understanding that it is simply a matter who would be the provider; no loss of funds, no loss of programming, no loss of any service. It's a

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

Floor Debate  
May 04, 2017

---

matter of whether it would be the Nebraska Family Coalition or it would be Magellan that would have the contract.

SENATOR KRIST: So to clarify, the people who were providing services would just change their hat from Magellan to NFC? I've never seen that happened ever.

SENATOR RIEPE: Well, I don't know what that would be. All I know is who would be holding the contract. So we don't have the details of what the implications would be if, for example, Magellan was awarded the contract. Obviously, it's pretty disruptive at this point in time.

SENATOR KRIST: Colleagues, I think this is probably not as important as passing a budget, but I think this deserves some discussion before the end of the day, and I would ask Senator Riepe, as the Chair of Health and Human Services at some point before we adjourn today to come back up with who is going to be...who holds the keys to the castle and who is going to be providing those services, because an interruption of services in the Eastern Service Area would be devastating for the state. So if you could do that for me, please, that would be great.

PRESIDENT FOLEY: Thank you, Senators Krist and Riepe. Mr. Clerk, we'll now proceed to the agenda. Next bill, please.

ASSISTANT CLERK: Mr. President. The next bill, LB332; the bill is on Select File. I have no E&R amendments. Do have an amendment from Senator Stinner, AM1298. (Legislative Journal pages 1337-1338.) [LB332]

PRESIDENT FOLEY: Senator Stinner, you're recognized to open on AM1298. [LB332]

SENATOR STINNER: Thank you, Mr. President. Members of the Legislature, AM1298 is part of the Appropriations Committee proposal to draw \$173 million from the Rainy Day Fund over the biennium to shore up the state's budget deficit for fiscal year '17-18 and '18-19. The amendment redistributes the \$173 million transfer to the General Fund in fiscal year '18-19 by allocating \$125 million to the fiscal year '17-18, and \$48 million to the fiscal year '18-19. In other words, some of the transfer shift up one year. The rest of the \$48 million would occur in fiscal year '18-19. This method will accommodate some cash flow concerns. General Fund balances typically hit low points in March and April. AM1298 would be amended into the committee amendment, AM595, which was adopted on to General File. Thank you, Mr. President. [LB332]

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

Floor Debate  
May 04, 2017

---

PRESIDENT FOLEY: Thank you, Senator Stinner. Members, you heard the opening on AM1298. Senator Riepe. [LB332]

SENATOR RIEPE: Thank you, Mr. President. I wanted to come back to respond to Senator Krist's comment. And my point there is there will be no interruption of services with the...because the Nebraska Family Coalition will be awarded, is what I'm told, an emergency contract, and so no break in service. They should be as smooth as it possibly can be. Thank you, Mr. President. [LB332]

PRESIDENT FOLEY: Thank you, Senator Riepe. Further discussion of AM1298? Senator Erdman. [LB332]

SENATOR ERDMAN: Thank you, Mr. Lieutenant Governor. I was wondering if Senator Stinner would answer a question or two for me. [LB332]

PRESIDENT FOLEY: Senator Stinner, would you yield, please? [LB332]

SENATOR STINNER: Yes, I will. [LB332]

SENATOR ERDMAN: Senator Stinner, it's been a while since I spoke, so I had to get up and ask you a question about this transfer. So you say this transfer balances the budget and going forward helps us be...what do you call that... [LB332]

SENATOR STINNER: Well, it balances the budgets and... [LB332]

SENATOR ERDMAN: ...when you say we're...we're balanced according to what the...how do you say that? What's that word you use? [LB332]

SENATOR STINNER: It's structural balance. [LB332]

SENATOR ERDMAN: Structural balance, this helps with structural balance? [LB332]

SENATOR STINNER: Yes. [LB332]

SENATOR ERDMAN: So we're transferring this money to pay for ongoing operations and we're doing this out of the cash reserve to balance the budget on on-going operations, is that what we're doing? [LB332]

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

Floor Debate  
May 04, 2017

---

SENATOR STINNER: Actually, it's to provide the appropriate amount of cash flow so that we don't run out or short of money where we would have to go to the Rainy Day Fund. [LB332]

SENATOR ERDMAN: Okay. All right. Thank you. [LB332]

PRESIDENT FOLEY: Thank you, Senators Erdman and Stinner. Mr. Clerk. [LB332]

ASSISTANT CLERK: Mr. President, Senator Krist would move to bracket the bill until June 2. [LB332]

PRESIDENT FOLEY: Senator Krist, you're recognized to open your bracket motion. [LB332]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, colleagues, good afternoon, Nebraska. I've been working throughout the lunch hour and for the last few days on some alternatives for property tax relief. Worked extensively with Bill Drafting over the last few hours, and I'm waiting for an amendment to come down that has been...Senator Stinner has allowed me, graciously allowed me to put an amendment on LB332. And the amendment would, as I will describe it to you in a second, so, two things. First of all, this bracket motion is a placeholder for us to continue to have a discussion. Senator Albrecht, you wanted to have a discussion on some of those facts and figures and where we're going, and this will give us an additional time to do that, until my amendment comes down. This is not a tactic that has been used irreverently. I think it's what we have been asking for both last night and again today. So thank you, Senator Stinner, for the courtesy of allowing me to put the amendment on. Rather than talking about nothing, the Speaker asked me to make it productive. And that's why the bracket motion is there and that's why I'll open, basically, on the amendment as we start talking about things moving forward. So the amendment, basically, will have two parts. The first part comes extensively from the Revenue Committee in the amendment and it is a basis of Senator Erdman's reevaluation of ag land property. We have been talking for the last four years, both in subcommittees and in special committees, combination of Education and Revenue, and Education and something else, about property tax assessments in the ag land. We've never come up with anything that looks or sounds or smells like it is a change in that evaluation process. Senator Erdman brought forth a plan, and I spoke highly of it and favorably of it when it came up. And I believe that in order for us not to be reactionary, if you will, reactionary, whatever the right words are, when the farm next to you goes up for sale and you pay \$14,000 an acre and your land is being evaluated at \$7,000 an acre, it should not drive your property tax up another 10, 15, 20 percent. So we have to find another way to assess property taxes. Now, I'll say this--from my urban counterparts, it does nothing for you. That's how we do business. You build a million-dollar house down the block from me and my house is going to go up in value. That's a problem that we can fix at a later date. This is strictly about ag property and the evaluation process. I believe that the scrub on what Senator

Floor Debate  
May 04, 2017

---

Erdman originally gave to us is valid. And those things that have been changed, incrementally I will say, but tweaked by the Revenue Committee had an incredible value; it was just buried in a collage of other things that we couldn't draw from. The second part of the bill addresses something that has been blogged, it has been referenced in the last few days that we, this Legislature, 49 of us, after yesterday and last night, offered no possibility for any property tax relief to the people of this state. Now, those of you who are looking to be reelected and don't want a target on your back, I bring this forward for you because I think it's time for property tax relief in this state and I think we have to have a measured discussion today about what that looks like. Now Senator Friesen and I have collaborated on many things; we have disagreed on many things, but we have talked about this issue extensively over the last few hours and last few days, and I'm not saying that we agree on everything that is in this amendment, but it's time. It's time for this amendment. This amendment opens up the door for us to talk about all of those tax relief programs, tax incentive programs that are out there. I've identified four. Now you can take a look at the amendment and you can say that is unacceptable, as Senator Friesen, the other day, thought that taking more money out of roads is unacceptable. I agreed to disagree with him on a few issues. But the major issue here is we're going to have this discussion this afternoon about property tax relief. If you don't like the kind of offsets that I have found, then amend them out, amend something else in. But I will tell you that the assessment that the Fiscal Office will come up with, if our numbers are correct, someplace between \$75 million and \$85 million a year will go into the Property Tax Relief Fund as a result of the amendment, if you leave it the way it is. If you amend something out of it, it could be between \$35 million and \$45 million. The bottom line is, we'll do something about property tax relief in this state because we will take money that's an offset in tax right now and we will put it back into property tax relief. Senator Stinner and others, including the Speaker, have said--you want to change it? You show me where we're going to get it. Okay, this is my best guess, scientific guess--SWAG, if you want to call it that--of where we can get the money to put into property tax relief. I said the other day and made a joke with Senator Walz, she is in real estate, and the whole mantra is--location, location, location. Well, this is property tax relief, property tax relief, property tax relief. Now I'm hoping that we can have the discussion, start the discussion and that when the amendment actually comes down you can read the words and say, no, I disagree with that; I think it should be here. No, I think this is the wrong way to move. I disagree with that, also. I know there's been many other folks that have been out there researching plans in order to do that, but this is my contribution to the effort this year. This is my attempt, along with the help of Senator Friesen and a few others. And particularly I want to thank the folks who are involved this afternoon in putting the final touches on. And for Micah up in Bill Drafters who is hurriedly scrambling to make sure that the product is together for us to actually discuss. So once again, the bracket motion is a facilitation to wait for an amendment to come down so that we can have a discussion and the actual words; and it's also an opportunity for all of you who have any questions, the fiscal staff is sitting over there on other issues, go talk to them if you have questions about any of the other Appropriations bills.

Floor Debate  
May 04, 2017

---

I'm here. I'd love to talk to you about what I've just discussed on the mike, but I think it's time to have the discussion about property tax relief. Thank you, Mr. President. [LB332]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Smith, you're recognized. [LB332]

SENATOR SMITH: Well, what a shock. We have Senator Krist wants to have a discussion on taxes. I thought this was the same senator that wanted to shut down discussion on taxes just a few day ago, reprimanding our Speaker for putting LB461 back up on the agenda for full discussion. He wanted to shut that down, and then he wanted to recommit...filed a recommit motion to send LB461 back to committee because he couldn't understand and didn't want to spend the time to understand it. And now he is going to get on the mike today, two days after he's announced he is running for Governor, and he is going to tell us that he is now the defender of property tax. This is going to be an interesting conversation, colleagues. Do I smell hypocrisy? I certainly do. Thank you. [LB332 LB461]

PRESIDENT FOLEY: Thank you, Senator Smith. Senator Friesen. [LB332]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. So from the first year that I've been here I've talked about property tax relief. The first two years, everything was bottled up in committee and stuck there and nothing made it to the floor. You have heard the story before. I'm frustrated. Now my urban counterparts are frustrated, too. Their housing valuations are climbing. And we just talk about how we're going to approach it and we do nothing again. We have spent this session wasting a lot of time and we could not get anything through. I would have loved to see LB461 get through if it would have addressed property taxes up front. It didn't do that. I'm willing to work on income tax cuts if you put them in front of me. I will help with that. Because I think in the end, it's all taxes that burden business. But to me, property taxes are front and center. They have been for 20 years. And more so for rural areas than they have been for the urban areas. But that time is changing. Valuations are now climbing and we're going to have a spike in the housing market possibly. We have to head it off before it gets as bad as it did to ag. I will support whatever brings property taxes down, and if we have to include other things, we will. In the end, we have to address how we fund TEEOSA and K-12 education. And by doing this, I think we build a reservoir of dollars to do it with. Obviously, when you want to address how we're doing TEEOSA, there's not going to be a transfer of money away from the urban schools to the rural districts that don't receive any equalization aid. I realize that. So we have to broaden the pot and we have to have the state more involved in how we fund K-12 education. And that's been my goal. I have thrown other ideas out in the past; I've talked about if the state would cover 80 percent of the basic costs of an education of what the state mandates, we could look at that and we can say, well, the state will cover 80 percent of what is mandated for an education K-12. And if they want to do other things on the side, they can do that on property tax. I've thrown

Floor Debate  
May 04, 2017

---

every idea out that I can think of. And this is just the first year that we finally got something to the floor. And we happen to be in a budget crisis, which I don't think hurts or helps, it would be the same argument whether we had a pot of money to fight over or not. How do we address property taxes and K-12 funding? That's still my focus. We have to address TEEOSA along with this down the road, we cannot let it keep going the way it is. But at the same time, we have to look at our tax structure, and I will agree that we have to look at income taxes, property taxes, and our sales taxes. Where are we at and how much each one funds? Right now we're not equal. Sales tax would be on the low end. Some day we are going to have to address that. But there's different revenue streams we use, but we are limited in how we address it. So I still think we have to be watchful in our spending. Everyone needs to be a little bit more conservative in their spending. The university has got room to make some cuts. Everyone has a place to make some cuts. There has not been any pain felt yet by anybody. So I think we've got a long ways to go on this budget. I am looking forward to the discussion again, because I don't think it's complete yet. I still want my urban counterparts more involved, and hopefully they will be. So when I look at what this does today, probably, it brings another piece to the table to look at. And when we get to see the language, we can start to pick it apart, but I think the principle of it is sound. So I look forward to seeing the amendment and further discussion on where we might be headed on property tax relief. Thank you, Mr. Lieutenant Governor. [LB332 LB461]

PRESIDENT FOLEY: Thank you, Senator Friesen. (Visitors introduced.) Continuing discussion. Senator Brasch. [LB332]

SENATOR BRASCH: Thank you, Mr. President; and thank you, colleagues. Good afternoon to those here and those watching. I will echo words expressed by Senator Smith: surprise, surprise, surprise. And I'm disappointed. We have been...I've been speaking with many, Senator Erdman for one. I asked Senator Erdman was he aware of this and he nodded his head, no. Not even Senator Erdman is aware. Him and I have worked together very closely on taking LB338 and making it a better bill by incorporating a majority of LB602. He admittedly said LB602 needed some modifications. A lot of time has been spent with that. And actually his staff, my staff, Brewer's staff, we're working together, we're collaborating in hopes that those colleagues, those urban colleagues, and especially our good friend and colleague, Senator Krist, who echoed property tax, property tax, property tax, will look at what we have put together. They are priority bills. It was my priority bill, LB338 is still sitting in committee. It does not have the income tax piece in it. LB461 was good, a good balance in hopes that the urban senators and others would say, okay, a little income, a little...but all the urban senators said, no, we're hearing property tax. And so that's what we've looked at, that's what we're working on. We're looking at something that out of LB1102 (sic) will address some of the residential property tax concerns. I've talked to the Speaker about it. I am going through the proper channels. And when Senator Friesen talked about since he got here, I've been here longer than he has and I have made property tax my priority year after year, where it hasn't moved out of committee. And this time it has just become

Floor Debate  
May 04, 2017

---

a crisis. A phone call I had today said, you know, when you introduced LB350 and LB351, the 20 percent to education to...and then the other 75 to 65, if that had have happened, we wouldn't be talking about the problems we have today. But that was then. And I'm a firm believer in doing things right and first things first. And I believe a priority bill should have precedence over a surprise amendment that one individual who believes he knows the problems of the state firsthand and by flying over hasn't even here, boots on the ground, had the courtesy to talk to his senators. And that's one lecture that Senator Krist gave me as a new senator is that I should go and talk to senators before I address them on the floor, change a bill, change my vote on a chairmanship, and the statesmanship. It's a big deal. It really is a big deal to me and it means something. So my priority bill is there. Colleagues, amendments are being reviewed very carefully that it raises no one's tax, that we look at property residentially, that we address the income; we're using the best of the best from Senator Erdman's bill. And we've spent time on it. We didn't just rush it upstairs, draft it up and pop it on. And if that's the case, it would be nice to even speak to the Chair of the Ag Committee about it potentially, if it's not her priority bill. Colleagues, it's great. However it happens, it happens. But what goes around comes around. And so when your important bill comes to the floor and someone... [LB332 LB338 LB602]

PRESIDENT FOLEY: One minute. [LB332]

SENATOR BRASCH: ...just sneaks something in for whatever reason, it's upsetting. So thank you, colleagues; and thank you, second house, for your patience with a body of 49. Thank you, Mr. President. [LB332]

PRESIDENT FOLEY: Thank you, Senator Brasch. Speaker Scheer, you're recognized. [LB332]

SPEAKER SCHEER: Thank you, Mr. President. Would Senator Friesen please yield? [LB332]

PRESIDENT FOLEY: Senator Friesen, would you yield, please? [LB332]

SENATOR FRIESEN: Yes, I would. [LB332]

SPEAKER SCHEER: Thank you, Senator Friesen. First question, I guess, that comes to mind, if we're looking at \$50 (million) to \$75 million in property tax relief, then am I of the assumption that you...this is it? This is what you have been looking for for the last two years and we will finally accomplish the tax relief that has been discussed over the last two days and the last two years? [LB332]

SENATOR FRIESEN: No, this wouldn't be an end game. [LB332]

Floor Debate  
May 04, 2017

---

SPEAKER SCHEER: Okay, so this is...I don't want to put words in your mouth. Is this just a starting point then from your perspective? [LB332]

SENATOR FRIESEN: Yes, it would be a starting point, but it's a fairly good starting point. And when you look at the overall picture of TEEOSA and the Property Tax Credit (Cash) Fund, I think within a couple years it does give us a... [LB332]

SPEAKER SCHEER: Thank you, Senator. That really wasn't the question, about TEEOSA, it's about this bill. And this bill doesn't do anything for TEEOSA. This bill reduces the valuation on farm ground; and let me preface, I do have farm ground, so I'm not throwing arrows at people, I'm throwing them at myself. I do realize that there's a property tax problem in the rural areas. But what we're doing today is throwing an amendment on that we haven't even been able to read. It sort of reminds me of the ACA where we've got to pass it in order to know what we're going to have, and we're going to take business incentives away from businesses that have, in good faith, came to Nebraska or invested in Nebraska in their future and then we're going to take those away. It's going to make Nebraska probably not a very desirable place to try to come and do business if you can't trust the Legislature to uphold their commitments. Seventy-five million dollars or forty-five million dollars is a big chunk of money. And the one thing that concerns me about when we talk to property tax relief is that no matter whatever we come up with...and I have come up with things over the last five years and nothing is ever good enough. Everything that you come up with is always just a starting point. This helps no one in any of the residential or commercial areas. All the money, all the relief is going to ag. I don't think that is a fair approach to put on the floor on a budget bill that is the last bill of the day. I think we need to be more thoughtful. I appreciate the thought and the effort, but we've had bills...in fact we just discussed one that had property tax relief. There was no appreciable interest in trying to amend that to make it better. That whole day was spent trying to kill the bill. Fair enough. But we had the avenue in front of us to make changes if indeed we wanted to have true property tax relief, and perhaps maybe income tax relief. Don't know. We didn't have that discussion. There were no credible amendments trying to improve that bill or to change the bill to make it more amenable to those that found discomfort with it. I appreciate Senator Krist's willingness to move forward on something, it's something to talk about. But bear in mind, we have talked about property taxes all morning and we've talked about it for over an hour last night. This doesn't solve the problem per Senator Friesen. This is just a start. I don't think we should be starting something this late in the game when we don't even know what we're doing and how we're going to go about doing it and where those funds are going to be coming from, which will be explained to us, I'm not trying to diminish the fact... [LB332]

PRESIDENT FOLEY: One minute. [LB332]

Floor Debate  
May 04, 2017

---

SPEAKER SCHEER: ...that we do not have the amendment. But bear in mind, this bill that's coming down, folks, colleagues, is not a little amendment; this is about a 65-page amendment. That is a big bill. And if you think any of us can look at that and truly understand it within the next two to three hours, you're a far better person than I am. That is an awfully big chunk to tear off in a debate that is supposed to be about the budget, and it can be combined with such, but I don't...I would like, as Senator Friesen said, I would like to have some property tax relief. I have introduced things that have done such. But it has never been enough and, again, this is not enough. So if it's not enough, let's come up with something that maybe is enough and really have a discussion about that. Thank you, Mr. President. [LB332]

PRESIDENT FOLEY: Thank you, Mr. Speaker. Senator Hughes. [LB332]

SENATOR HUGHES: Thank you, Mr. President. Good afternoon, colleagues. I applaud Senator Krist for bringing something for property tax relief. I applaud Senator Smith for doing the same thing in LB461, and I feel bad that we didn't get that. We fell six votes short of moving that ahead. There was significant property tax relief in that bill. But I am like Senator Friesen, property tax affects everybody in the state of Nebraska that owns a home, rents a home, has commercial property, ag land, recreation land, whatever. The values in the ag sector have been double-digit for quite some time. The homeowners in Lincoln and Omaha are just beginning to see that. I hope they continue, I really do. I hope your home values continue to escalate. That means you're worth more. Then just sell it so you can pay your taxes. That's what we hear in agriculture. Just sell a quarter of land so you can pay your taxes. Well, sell your home so you can pay your taxes. We need property tax relief. And I'm certainly willing to work with anyone, anyone on this floor, who can help me accomplish that, because it is that important. I have neighbors who are losing land. I have young people who are walking away from farming and selling their equipment, renting their land out, and going to town and getting another job. These are young people we cannot afford to lose in agriculture. We need to replace the old guys like me and Senator Friesen. There needs to be money in it. We need to be able to make a profit, and right now property taxes are our worst expense. And if we can find a little bit of relief now, this does not solve the problem. At some point, I'd like to have the discussion about property taxes and why we tax property, whether or not it should be taxed, and if so, how much. I've had some conversations with past members of administrations that said you need that three-legged stool balanced between income, property, and sales to keep the state in balance. We are way out of balance now. I will work with anybody for property tax relief. Thank you, Senator Krist. Thank you, Senator Smith for your efforts in the past. I hope we can get something done this year. Thank you, Mr. President. [LB332 LB461]

PRESIDENT FOLEY: Senator Hughes. Senator Linehan. [LB332]

Floor Debate  
May 04, 2017

---

SENATOR LINEHAN: Thank you, Mr. President. I'd like to thank Senator Groene. I think this morning--at least it was on my desk--he handed out a study from...it's S-H-E-E-O, you probably still all have it on your desk. It talks about the cost of education in every state and how much they spend per student and what the cost is in...Nebraska comes in third. What has bothered me about the conversation we're having right now, and every conversation we have had about property taxes since I got here, is that we always talk about where we can go get more money and we're not focusing on how we could be spending less money. I understand why the rural senators feel that they have...that the TEEOSA formula is not working. Clearly, the money shifted over the years since it was first created. The current bill that we will vote on later this afternoon has \$296-plus million going to Omaha, \$19 million going to Millard for opt-in kids, almost \$4 million going to Ralston for opt-in kids, \$15 million going to Westside for opt-in kids. So, many of those opt-in kids, we all know, come from OPS. So out of the almost billion dollars in TEEOSA, we're going to serve OPS kids, \$335 million. So you can understand while the rural senators are concerned. I get that. But I find it very hard to believe that we would look at a bill that is going to shift more money for property tax relief until we figure out how we can get costs under control. Again, third in the nation. The other thing I found over the last couple of weeks, looking at this, is when I first got here this winter, January, the NSEA handed out...and I'm assuming all of you got it too...a great chart, it's very informative. It is the school funding history, property tax and state aid receipts and total school spending starting in 1992 through 1993. So, I played with these numbers, and I will ask the pages to get copies and hand this out. If you adjust the funding, property taxes, receipts that we're going to...according to the NSEA...were going to schools and compare them to what we're spending today in property tax in schools, 36.30 percent more in property taxes, in real dollars, is going to schools today than they were in 1992. That's real...that's adjusted for inflation. So it's up 36 percent. State aid is up 35.9 percent--almost identical. So overall, we're up in inflation adjusted dollars 36 percent, over 36 percent. The student population in Nebraska has grown 8 percent. So when we...and I realize we had to do TEEOSA earlier and the Education Committee struggled mightily trying to figure out how to do it, and Senator Groene did a great job trying to make sure that he was as fair as possible. And I worked with him daily, almost, on it for a couple of weeks and I think he did a good job with what he was handed. But until we realize... [LB332]

PRESIDENT FOLEY: One minute. [LB332]

SENATOR LINEHAN: ...I really believe this, until we realize we have to look at spending and taxes altogether, we're not going to get any real progress here. I can't believe we're having a conversation, and I do own a home and the property taxes are very high on it; my kids own a home; my husband has got two warehouses; all in, we pay a lot of property taxes. I'm pretty sure very similar to what many landowners are paying. But I don't understand the reasoning why I would write out a check to state of Nebraska, Department of Revenue and send them my money so they can send me back a refund on my property taxes. It is literally stealing from Peter to pay

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

Floor Debate  
May 04, 2017

---

Paul. And we need to get beyond it and look at the whole picture. Thank you, Mr. President.  
[LB332]

PRESIDENT FOLEY: Thank you, Senator Linehan. Senator Watermeier. [LB332]

SENATOR WATERMEIER: Thank you, Mr. President. Good afternoon, Nebraskans. Right back here to the discussion that we probably need to continue to have, but I'm not sure it belongs on a cash reserve Appropriations bill. I didn't hear all of what Senator Krist had talked about or offered, I probably just missed pieces of it, and I may yield him the rest of my time. But I right now today I would probably be opposed to this idea. I heard several things in there in dealing with taking away a tax incentive and paying for this. I thought I heard something in the background about ag only on the relief of \$75 million; maybe that wasn't accurate. I think I heard something about coming out of the cash reserve. I have been working very hard and very diligently and had prepared some hope on LB461, but those ideas would have been generated by income...excessive income that we will have in the economy at those years. Even in a split of a biennium it would have happened in the in-between of every biennium. I really appreciate Senator Krist bringing to the forefront the property tax debate. We need to have it. And it's probably true, I think I also heard in that discussion that many of these things have been debated on one or another bill, somewhere along the line this session. But as it states to me right now, and I would hate to vote against a property tax relief bill, but I would probably be opposed to this idea, but keeping in mind that I don't believe I have ever supported a bill that was strictly to ag values and reduction in ag land taxation. We have supported some bills that reduced the valuations from 75/65, and even Senator Brasch's bill with the valuation range from 55 to 65. Two years we supported a bill that would have inputted another \$20 million in the property tax credit with a mechanism that generated it higher so that there would have been ag. But it's never been my intention, never my intention to strictly support ag land valuations. All the property taxes in Nebraska are supporting schools. And I think to defend my position now in the last couple-three years, especially in western Omaha and places like that, we're hearing a screaming effect that their houses have gone up 5 to 10 percent. By golly, they went up 5 to 10 percent. And so that is what we have needed. We have needed that conversation for the residential values to go up. The commercial values are a different animal all together, different cat altogether. But it's going to be hard for me to support a bill that comes on at the last minute here, even though we could do this next week, but I'm going to struggle with the funding mechanism of this timing. And I'm going to also struggle with the fact that the revenue stream to pay for it, because what I have really worked so hard on and so diligently on is to make sure we can fund these property tax credit changes, minor relief changes, for the interim until we get to property tax reform. Property tax reform means to me TEEOSA, CIR, property taxes, but the king of all that is the spending mechanism. We have danced around the spending of so many different things in this body, and it's very, very difficult to do that. I don't think the will is in this body to talk about spending. I think the will is outside of this body in Nebraska, they're willing to talk about

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

Floor Debate  
May 04, 2017

---

spending cuts. My fear is that we may have a referendum some day that really handicaps us in here to do it right. I hear the rumblings... [LB332 LB461]

PRESIDENT FOLEY: One minute. [LB332]

SENATOR WATERMEIER: ...not just from agriculture, but from everybody that owns property, not owns property only, but that has children in schools. See what it costs. The simple fact is--we spent \$1 billion on education a number of years ago, and I think it's 20 or 22 years ago, unbelievably today we spend \$3.9 billion on our K-12. It's unbelievable. And we can't get our arms around spending. So I really appreciate Senator Krist's effort to do this. But this is a little bit of a different approach than I ever dreamed of. And if it comes out of the cash reserve, I can't support it, because it's unsustainable. If it does tie it to some tax incentives, I'm all in on that, because if you know me, I've done nothing but study the tax incentives. [LB332]

PRESIDENT FOLEY: Time, Senator. Time. [LB332]

SENATOR WATERMEIER: Thank you, Mr. President. [LB332]

PRESIDENT FOLEY: Thank you, Senator Watermeier. Senator Smith. [LB332]

SENATOR SMITH: Thank you, Mr. President, and again, colleagues. I really appreciate the very wise words of our Speaker Scheer earlier, and I think he probably expressed a lot of my feelings very, very well. We have heard conversations on this budget so far today, and we have had some conversations about the University of Nebraska, and we heard from my colleagues...my colleagues in here talking about the value of the University of Nebraska system as an economic driver for our state. And that's why I have supported keeping the funding in place, not that University of Nebraska system does not need to rein in its spending; it certainly does. I have trust that we have leadership at the University of Nebraska, new leadership at the University of Nebraska that's going to, in the long term, get that under control and make our university system a leaner, better system for our state, and an economic driver for our state that brings jobs and creates opportunities and performs research and all those great things a state needs to grow. We're talking about taxes and, of course, we talked about LB461 before. What we were attempting to do with LB461 was to make certain that no one in the state was left behind. I have colleagues that have been supported by the chambers of commerce in their elections, that have stood on this floor of this Legislature and they have denied businesses opportunities to grow by denying tax relief and tax reform. It is really unfortunate. I wish we had more statesmen and stateswomen in this state rather than people that make their decisions based on what's in it for them. We have a very diverse state. And we need to have a more diverse economy. But we stand here and we divide. It's unfortunate, because I've spent more than a year advocating for a

Floor Debate  
May 04, 2017

---

comprehensive approach, and I have had my colleagues stand on this legislative floor and misrepresent me and misrepresent my intentions and misrepresent what we have accomplished to that end. And it is terribly unfortunate. You know who it is most unfortunate for, colleagues? It's those constituents that you say that you represent. It's unfortunate for them. What are we to do in this state? Are we to stay stagnant and have the same number of taxable units to spread our cost across, and so that as needs of government grows, needs of our citizens grow that the government needs to provide for, that we just tax those taxable units more, those families and those businesses to where they don't have an incentive to do more, to achieve more, to dream more? What is to become of our state? I'm a business owner. I chose to be a business owner because the sky's the limit. That's what we always believed. I came down here because government constrained me. Government was in my way for me to do my best. We need to help our small businesses in this state that dream big. We need to give them some help. And LB461 was just such a small amount of help that we asked for, and this body denied it. And we denied our families at all income levels. [LB332 LB461]

PRESIDENT FOLEY: One minute. [LB332]

SENATOR SMITH: And you know what you're doing? You're splintering the state even further and we're denying the state from growing as it needs to. If you truly believe in what you say about the University of Nebraska being an economic driver, think about tax policy as well and don't accept the hypocrisy of what was brought to us today by Senator Krist. Thank you, colleagues. [LB332]

PRESIDENT FOLEY: Thank you, Senator Smith. Senator Briese. [LB332]

SENATOR BRIESE: Thank you, Mr. President, and good afternoon, colleagues. I rise to comment on this proposed amendment that we're going to be seeing here at some point. And I want to thank Senator Krist for bringing this. But I also want to thank Senator Smith for his leadership on tax reform. And I want to say now if LB461 would have contained significant and substantial property tax relief, as I define significant and substantial, I would have supported it wholeheartedly. I believe that the amendment that Senator Krist will be bringing is the kind of proposal that Nebraskans are asking for. Nebraskans are demanding property tax relief. And I've spoken numerous times as to why they deserve it. I'm not going to recount those facts. I think we're all aware of the issues facing hard-working Nebraskans when it comes to property taxes. We can talk about tax relief, property tax relief from now until the 4th of the July, and we may well be in session until then doing just that. But we were sent down here to get something done on property taxes. Senator Friesen hit upon it last night when he commented how he was sent here to get something done. And I got to thinking, too, if all I'm going to do is complain about property taxes on hard-working Nebraskans, I could have stayed on the farm in Boone and done

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

Floor Debate  
May 04, 2017

---

that. But I'm here to try to get something done on the issue also. And this amendment will allow us to do something meaningful about property taxes. As I understood it, I have not heard the details yet, I think Senator Krist alluded to it, it may eliminate some tax loopholes for an extremely small segment of our population. In return, it's my understanding, it will provide property tax relief for all Nebraskans through the use of the Property Tax Credit (Cash) Fund. I realize the use of this fund has its naysayers, but, folks, tax policy should be fair, effective, and easy to understand, and the Property Tax Credit (Cash) Fund meets those criteria. It goes to owners of all real property in Nebraska. It goes directly into the hands of our property taxpayers, and it is simple to understand. To the extent there are objections to the Property Tax Credit (Cash) Fund, we can look for other ways to put these revenues into the hands of the taxpayers. But I submit to you that for now this is a good way of doing it. And some asked earlier if this is the answer to our property tax issue; and I say--no, it's not the answer. When we collect a billion more in property taxes and income taxes, this doesn't get us there. Some objected to the way in which this was brought. I had two bills before the Revenue Committee that would have raised \$600 millions directed towards property tax relief. Couldn't even get it out of committee. So, yes, I think all options need to be on the table. Senator Krist, would you yield for a question? [LB332 LB461]

PRESIDENT FOLEY: Senator Krist, will you yield please? [LB332]

SENATOR KRIST: Absolutely. [LB332]

SENATOR BRIESE: Am I correct in my understanding that this amendment will utilize the Property Tax Credit (Cash) Fund? [LB332]

SENATOR KRIST: Yes, sir. [LB332]

SENATOR BRIESE: Thank you. Second question, can you disclose the source of this revenue? [LB332]

SENATOR KRIST: The exact source of the revenue will be in the amendment, but one of them is an S corp. and one of them is an offset for historic offset tax what we had in place; there are four separate ones. And I'm not trying to hide on any of them. I understand, Senator, that we will have pushback on one or two or all because there are some lobby concerns and some special interest concerns, but it's worth a discussion. [LB332]

SENATOR BRIESE: Okay. And will the amendment also utilize some of the provisions of LB338, the ag land valuation component of LB461? [LB332 LB338 LB461]

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

Floor Debate  
May 04, 2017

---

SENATOR KRIST: Yes, sir. [LB332]

SENATOR BRIESE: Okay. Thank you very much. These concepts, folks, are all things that we have discussed either in committee or on the floor. So I'm not at all troubled by the fact that this amendment just kind of jumped out at us today. [LB332]

PRESIDENT FOLEY: One minute. [LB332]

SENATOR BRIESE: And I agree wholeheartedly with Senator Linehan's suggestion that we do need to look at spending. I've been saying for months if not years that spending controls have to be part of the solution also. It must be a two-pronged approach. And clearly raising revenue must be part of that approach also. This amendment will help raise revenue to put back in the hands of our property taxpayers to accomplish some measure of property tax relief. And this amendment is an opportunity to show Nebraskans that we're serious about this issue. I look forward to full and fair debate on this. Thank you, Mr. President. [LB332]

PRESIDENT FOLEY: Thank you, Senator Briese. Senator Friesen. I do not see Senator Friesen. We'll move on to Senator Harr. [LB332]

SENATOR HARR: Thank you, Mr. President, members of the body. I was reading the comics this morning and it talked about--"May the fourth be with you." And so they thought...they said it was "Star Wars" day. I think Senator Lindstrom is even wearing some tabs for "Star Wars," but turns out it's actually Festivus--airing of the grievances. And maybe after two late nights, long days, maybe this is a good thing; let a little steam out, because what we're doing is pretty stressful. And we are cutting some programs we don't want to cut and we're spending some money we don't want to spend. And I was endorsed by the chamber. And I took offense at some of the things that were said earlier about not wanting to grow the state, because I do. I do want to grow the state. Senator Smith says I don't. But I disagree with him, I do, because I want to pay less taxes as well. I would rather pay 6 percent of a million than 7 percent of 100,000. I want to grow this state. But there's a smart way to do it and a right way to do it, and we're going to have a talk about that. I heard--if we could just control the cost of education, and that we have problems with OPS, and we have problems with a lot of these other school districts in the metropolitan area. They get a lot of state aid. Folks, look at their cost per student. It's cheaper to educate those kids in the cities, even with the large number of ELL and special ed kids, it's still cheaper. Think about this, if OPS, just their ELL kids, were it's own school district, it would be the sixth largest in the state. And ELL is more expensive, but they keep their costs down. We have to work together. We can't just throw stones at each other. I heard earlier that LB461, we were just trying to kill it, and anyone...I'll freely admit I was probably one of the leaders who said LB461 needs to be improved. I never said it needed to die. I kept encouraging others to work with me. I went

Floor Debate  
May 04, 2017

---

to other lobbying groups and said, go work a deal. I went to senators, I said, go work a deal. I tried to work a deal in committee. I tried to bring up concerns in committee and I was told, no, we're going to take a vote. I asked for information in committee, and I was told, no. This is what happens. This is why the committees are so important, is so that those who have some subject matter knowledge can work out some of the issues so we don't have wasted time like we do this afternoon. Property taxes is very difficult issue because the state does not collect one penny of property tax. By our constitution we are prohibited from raising a penny. But our actions, or lack of actions, have a direct effect on property taxes. And so we have to figure out a way to help reduce that burden without just having a hand out, without mandating... [LB332 LB461]

PRESIDENT FOLEY: One minute. [LB332]

SENATOR HARR: ...would have unintended consequences. So we will sit here and we'll have a nice conversation. I hope we keep it civil. But we shouldn't be making tax policy on the fly, folks, and I think we all know that and we can talk about it over the summer. I know Senator Smith wants to work with me. He smiles at me all the time, he shakes his head at me all the time. I don't know which way he is shaking it. But I want to work with Senator Smith and the other members of the Revenue Committee, and I hope that they will be civil and they will work with myself, with some of the farm groups, and with the chambers of commerce so that we can actually move this state forward and grow in a real and substantial manner. Thank you. [LB332]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Krist. [LB332]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues. The easy thing to do would be for me to retaliate, but I'm just going to simply make a couple of comments. If I am a hypocrite, then I'll own it. I don't think I am. I believe that LB461 was something that was promised to us, the product in LB461 was promised to us three years out. It was going to take three years before LB461 was going to show honest...an honest refund of any kind. And most of it was going to be in income tax, and understanding that less tax is less taxes, I get it. But that's not what I was hearing from my constituents. Number two, everything that's in the amendment has been discussed on this floor, as Senator Briese wisely put together, and I couldn't articulate it any better, it's either been discussed or we have discussed the topic of using offset in Revenue to put money back into the state budget either as a General Fund or as property tax offset. Now, my goals and ambitions in the future have nothing at all to do with the job that I'm doing right now. I am representing my constituents. And I take a bit of offense to Senator Smith's comments about my character and who or who not...who or who I might not support. But having said that, I won't stoop to his level at this point. I believe honestly that Senator Smith and his committee did what they thought was the right thing to do, given the guideline that they were given, and given the time frame that they have. And I know Senator Smith worked long and hard throughout the

Floor Debate  
May 04, 2017

---

interim period to put together a plan. My problem is, I didn't understand the plan, you didn't understand the plan, and it wasn't about property tax, it was about income tax. One thing about a very learned professor is, if he walks away with all the knowledge in his brain, he walks away. He never honestly shares the information that needs to be shared so that his students can learn something from what he knows. I believe, and I've...the Speaker has told me, this bill needs to be up and read through and back down here by 5:00. I'm not going to stand in the way of that progress by forcing this issue. And the one thing I'm not going to do is what Senator Smith has accused me of doing and that's make you vote for something and reject property tax and then go back to an election. But I am going to have a discussion about property tax. Tactically, strategically I am going to have a...I'll bet that...you freshman, if anybody in here has read the extensive 160-page report that was turned out by a joint committee hearing of Education and Revenue and there were a bunch of other folks involved, if you have read that and you see the combination and the crossover between us comparing in years past education, TEEOSA, those kinds of programs, and what we're talking about in terms of property tax offsets, if you've read that you would understand that this discussion is deep. So my challenge to you is to go back and look at the history and move forward in the future in the right way. Move forward in the future... [LB332 LB461]

PRESIDENT FOLEY: One minute. [LB332]

SENATOR KRIST: ...and adjust the evaluation process to make it fair. Use the Erdman model, maybe, to move forward in a way that we can fairly and effectively evaluate property taxes throughout the state. And it may very well be that commercial, residential, and agriculture needs to be different formulas that are involved. It may be that some of those county assessors are going to have to understand what they're doing; get a new program. The discussion that we will have throughout this day, I guess, is warranted. And I think people were frustrated last night they couldn't talk more about it. So let's talk about it. Thank you, Mr. President. [LB332]

PRESIDENT FOLEY: Thank you, Mr. Krist. Senator Linehan. [LB332]

SENATOR LINEHAN: Thank you, Mr. President. Senator Groene, rightfully, explained to me the numbers I had the pages hand out, don't include bond issues. So these are only property taxes and state aid that actually go to run our school. As Senator Watermeier pointed out, we are now spending on K-12 education of Nebraska \$4 billion. So I just wanted to make that clarification. I had also kind of wanted...I don't remember which senator and I understand because there's been a lot of confusion about property values in Douglas County over the last 12 months, because at one point everybody was up 30 percent, then they readjusted and some went down and some went up. My understanding is right now, throughout the Westside area, mid-Omaha, who are automatically raised 7 percent last year, are going up another average 3.5 percent. Elkhorn,

Floor Debate  
May 04, 2017

---

where I live, and that stretch of Douglas County, is going up 8.5 percent. West of Elkhorn, DC West, Valley, Waterloo, is going up 12.5 percent. So again, I understand the crisis that this is causing in the state of Nebraska, not just in agriculture. There are several people who are retired, who live out in Valley and Waterloo, some around older lake communities, not the new lake communities, and their valuations went up a 100 percent, some over 100 percent. In my neighborhood, valuations are up 40 percent. This whole property tax thing, as we all know, affects people differently all across the state; depends on what school district you're in; it depends on what levy you have; it depends on the valuation; it depends if the valuation is current. It is, I think we can all agree, a system that is broken. I think we can also agree, and I appreciate what do we want to tax? I know that this has been a very long, starting in the '60s, the state had property tax, and then the people said we're not going to do this anymore so we had to turn around and start income and sales tax. So it's not...it took a long, long time to get into this hole and we're not going to get out of it overnight. I do think, as I believe Senator Watermeier also said, that we need to look at TEEOSA and the spending and all of it together. So as much empathy as I have for the property tax--and I would call it a crisis--this is not the right way to address it. And I also want to shout out for Senator Smith because he did try. I mean, I think the first time I met him when I was running almost a year ago, he told me he was working on this issue. I think he has tried to figure out a way in a very tough budget year to get some relief to income taxpayers and property taxpayers. Because again, we're one of the only states in this area that taxes military retirement; we're one of the only states that taxes social security; and we also have one of the highest taxing rates and we start at a pretty low rate. So these are both problems. We have got seniors leaving the state because of income taxes. People in my area, who are retired, have taken pen to paper and figured out that you can live cheaper in other states; and, no, they do not want to leave Nebraska, it's not a matter that they don't like Nebraska, they don't love their grandchildren that live here, it is a matter of simply affordability. When you're retired, and you only have X number of resources, you have to make them last for as long as you live. [LB332]

PRESIDENT FOLEY: One minute. [LB332]

SENATOR LINEHAN: And when you look at your budget and your financial advisers are talking to you and they tell you you can live in several of the surrounding states and pay half what you're paying in property taxes and pay no income taxes, they have to look at that. So I think we need to all take a deep breath. And if we are going to do something about taxes, we need to go back and look at the big picture. Thank you, Mr. President. [LB332]

PRESIDENT FOLEY: Thank you, Senator Linehan. Senator Groene. [LB332]

Floor Debate  
May 04, 2017

---

SENATOR GROENE: Thank you, Mr. President. Senator Linehan, Briese, and Watermeier, thank you for bringing up the word "spending." We are a high income tax state, we are high property tax state. And guess what? Every one of those dollars collected is spent, every one of them. But we can't cut the budget. We can't cut the budget. We got to increase spending by 1 percent. Every single dollar that's collected is spent. So you cut my property taxes; are we going to cut spending or are we going to raise income taxes? So you're going to cut my income taxes, you're going to raise property taxes because we're still spending the same amount. That's how it works; two sides of a ledger. We can't cut spending. Until we do, we're going to argue. Those who pay more income tax, want income tax cut; those who pay more property tax is going to try to shift it to the income taxpayer, vice versa. The lower middle class that pays more sales taxes are going to try to shift to them and their defenders are going to say, no, because we can't cut spending. We keep throwing money at it. Third in the nation money towards our university, our education. Tenth in the nation in our public school systems. Meanwhile, those folks are smiling, they got the best healthcare in the state, better than anybody who pays their wages. University has better healthcare than all of us. Employees here, \$20,000, \$25,000 cost for the health insurance for all the employees, for a family. I don't have that. I introduced an LR last year about looking at getting a health system where...throw all the employees statewide into it. You know, if we raised deductibles to \$1,000 instead of \$100 or \$200, we could save millions. But we can't do that. We got to try to shift it. I worked with Senator Smith in Revenue on his LB461, voted right along with it. We worked hard trying to get my LB640 combined. But at the end of the day, I got to vote for my district. It did not help my district. Everybody, 30,000 or more of my citizens, 32,000 with LB461, would have had a higher property tax because the ag values would have went down and the shift would have been to the people in town. I couldn't vote for that. My ag people would not have gotten much of a break because they live in school districts that are unequalized. And on top of that, 40,000 citizens asked me for an income tax cut, so I was supposed to vote for that. I couldn't. Last night I voted against an amendment in the budget, took some grief. This morning my chamber of commerce in a phone call thanked me overwhelmingly for what I did last night. I saved the funding for a major clinic in our community. It's called local politics. And I will tell you this about politics. Brilliant, Senator Krist, if you can get a property tax cut in the next two (inaudible), you will be the next Governor. Because I tell you what, the Third Congressional District is Republican. The Third Congressional District votes, that's rural. In a primary, Republican primary, we're probably 50 percent of the votes. And guess what the issue in Congressional District 3 is? Property taxes. I will tell you, all you statewide candidates, the one that can stand up in the third district and say I got you property tax relief in the next two years, you will win your race. It's as simple as that. The Republicans live in Congressional District 3 and they vote. That's politics. We need to get property tax cuts and we need to get income tax cuts, but we got to cut spending. [LB332 LB461 LB640]

PRESIDENT FOLEY: One minute. [LB332]

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

Floor Debate  
May 04, 2017

---

SENATOR GROENE: We got to cut spending. We got to have some backbone here. Got to say no to the establishment, the government establishment that we fund. We can't seem to do it. They stand behind that glass with our tax dollars paying lobbyists telling us what to do and how high to jump. How many times has a senator told me I can't support you because my superintendent told me not to. I can't support what you want to do because the employee from the University of Nebraska told me what to do. You can't control spending listening to those, the ones that are rewarded by the tax dollars. You can't do it, folks. Control the spending, then we cut taxes. I admire Senator Krist and Senator Smith what they tried do. But at the end of the day we have got to represent our district and that's what I did on LB461 and that's what I did last night. Thank you. [LB332 LB461]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Smith...excuse me, I'm sorry. Senator Krist, I'm informed you'd like to withdraw your bracket motion. Is that correct? He signals yes, the bracket motion is withdrawn. Mr. Clerk. [LB332]

CLERK: Mr. President, Senator Krist would offer AM1332. (Legislative Journal page 1339.) [LB332]

PRESIDENT FOLEY: Senator Smith, you're recognized to open on your amendment. Excuse me. My apologies. My error. Senator Krist, you're recognized to open on AM1332. [LB332]

SENATOR KRIST: Thank you. It's a pleasure to be compared to my colleague Senator Smith. You can look at the amendment. It should be on your gadget. Mr. Clerk, could you confirm... [LB332]

PRESIDENT FOLEY: Excuse me, Senator Krist. Senator Krist, could you approach the desk, we've got a problem here. Speaker Scheer requests to be recognized. [LB332]

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. While you're discussing this, colleagues, I just wanted to bring to your attention on the schedule for tomorrow I believe we had listed LB447, I believe it's Senator Chambers' bill. And we will not be working on that. So we are making some adjustments. There will be probably two or three bills that we will take up in the morning other than that. So if you are doing any type of preparation work as far as tomorrow, I'll try to let you know what the bills are later this afternoon, but we will not be working on Senator Chambers; and I believe it's LB447, but I could be mistaken. But just wanted to give you a heads up so that you're aware of that at this point. Thank you, Mr. Lieutenant Governor. [LB332 LB447]

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

Floor Debate  
May 04, 2017

---

PRESIDENT FOLEY: Thank you, Mr. Speaker. Senator Krist, sorry for the interruption, you may continue. [LB332]

SENATOR KRIST: Thank you. We're almost to Denver, Senator Williams, almost to Denver. The amendment should be on your gadget. Is that correct, Mr. Clerk? [LB332]

CLERK: Yes, sir. [LB332]

SENATOR KRIST: Thank you very much. Amendment should be on your gadget, it's amendment AM1332. It is, in the wise words of our Speaker, it is a lot of pages; it ends up being 45 pages. It's too much for me to ask you to absorb and actually to take a vote on. It is my intention that you should look at this amendment as it exists and the potential of the next few days that we are around, look at property tax relief as a priority, because it's in here. Look at the reassessment of ag property as it came out of Revenue, because it's in here. Look at the possibility of still finding an avenue for us to get real property tax relief before the end of this session, because this will do that. But once again, to put it on the record and use the time that I have available to me, this amendment simply states, very simply states, that we, by June of 2018, will have a different assessment process in place for agricultural land...clearly. We have until then to work out the details and the bill...the amendment would allow to facilitate that process. The second thing it does, and I'm not going to go down the individual items on the taxes, Senator Briese, that you asked me the question on the mike before, you can do that and take a look at where they are. And you can also see, if you line up those tax offsets, who the opposition....well who the opposition would be to doing what we're doing if we propose to...if we purport to amend this to the bill. Many of you this morning have talked about additional cuts to additional spending. So I want to talk to that for just a minute. There was an attack...if I could call it an attack...there was at least a microscope, a magnifying glass, if you will, put on the salaries of the folks at the university. Folks, we can't control what President Bounds is being paid. That function is part of a contract established between he and the university and the regents. But we can control the purse strings. So we can suggest to them that if we reduce their budget, they would have to reduce their spending. So I would suggest to you that if you still have an issue with the university in terms of what the university is spending, put an amendment up there. Senator Friesen and I thought it was important enough to talk about these two subject matters that we put an amendment up there and we did have a very good discussion about the issues. I am disappointed that the Revenue Committee chose to put a bill out on the floor that in essence focused on income tax rather than property taxes. I am disappointed that we haven't talked about some of those tax giveaway programs that Speaker Hadley so wisely brought to us at the symposium at Offutt. I am disappointed that we are not further along the line because we spent 30 days arguing about rules. I am disappointed that we continue to talk about this budget as though it is an urban-rural split. I'm enlightened though to see that people are actually looking at and listening to their constituents in terms of what their constituents want. What they want is

Floor Debate  
May 04, 2017

---

property tax relief. What they want is leadership from us. What they haven't gotten in the last few years is property tax relief because they haven't seen leadership that we needed to bring forward. My opinion. And as a hypocrite I guess I can have any opinion I want to. More importantly I wanted to say for this discussion today, the process of trusting the Appropriations Committee and the process of trusting any committee to bring it out, the check and balance has always been in this body that once it comes to the floor we are all, all 49 of us, in this case, the Appropriations Committee. And in the case of Senator Smith's bill, we were all the Revenue Committee and we voted the way our constituents and the way our conscious and the way our will wanted us to vote. In some cases, it may have set many of you up for an adverse reaction from a particular group or, in terms of being reelected, highlighting you for different action groups. That's part of the business. So if you notice I'm not introducing specifics on the amendment, because it's my intention that we allow this discussion to go on until 3:20. At 3:20, I'm sure if I could ask Mr. President to give me the option to pull the amendment off so you can take a look at it and discuss it any way you want to later, but we have about 20 minutes left to have a further discussion on this kind of an approach to this process that we're in. I know Senator Schumacher has talked extensively about the things that he would like to have had the Revenue Committee turn out and those tax offsets that should have been discussed or could be discussed. I'm not going to put any words in his mouth, but I'm going to say that I believed him so much...I believe the "professor" so much that this student paid attention and brought something forward that emulated some of his concerns. I can assure you, once again, what my future ambitions and goals are have nothing to do with the fact that I am doing my job today the best I can for my constituents. And if we don't start talking about property tax in the next two years, the next year and a half, many of us are going to be sadly disappointed, put it that way. And I think to sew this together and finish my thought, for those of you, like Senator Linehan and others who are really concerned about education, how much we spend, I would remind everyone that you have the power to influence and to make laws and to oversee...to apply the oversight that you need to make sure it happens, but many things are outside of your hands. Many things are outside of our hands, outside of our control. Property taxes are, in essence, a county issue. The levy from your schools are your local school boards. Taxation by itself is granted at all levels by this body, so the control you might have over the university is with the purse strings; the control you will have over the school districts and over the counties, again, are the statutes that control and the taxes that they are allowed to levy. Once again, I will highlight, because I won't speak anymore on this until I withdraw it, these are two well thought out concepts that have been talked about many times on this floor and can be amended at any point throughout the rest of this year into an appropriate bill. [LB332]

PRESIDENT FOLEY: One minute. [LB332]

SENATOR KRIST: And we can still have property tax relief. The session is not over yet. We can still get property tax relief. Thank you, Mr. President. [LB332]

Floor Debate  
May 04, 2017

---

PRESIDENT FOLEY: Thank you, Senator Krist. (Visitors introduced.) Continuing debate. Senator Smith. [LB332]

SENATOR SMITH: Thank you, Mr. President. I just wanted to just address a few comments. It sounds like we're supposed to wait for a few minutes until Senator Krist decides what he wants to do with his amendment. Senator Briese brought up, you know, his issues with not being able to move his bills out of Revenue Committee this year. And while I'm sorry for Senator Briese for not being able to move his bills that he thought were critical to get to the floor, this is my seventh year here, Senator Briese, and I've been working diligently for seven years to try to get tax relief for our families and our small businesses in the state. You are a well-educated person, I know you are. And I know you understand basic economic policy and principles. And we do need to relieve the tax burden on our citizens and our businesses in the state. But for this state to go forward and to grow, we have to help every business in the state. And yes, indeed, this is an agricultural state. But more than 50 percent of income taxes and sales taxes that come into the General Fund of the state come from urban areas, and many of those dollars come from small businesses. Senator Harr was talking about it earlier about being a champion. There he is waving to me. My good friend Senator Harr, we've served here for seven years together. We were friends for seven years. Maybe we'll be friends again, Senator Harr, after this fight. But you know, Senator Harr has defended the issues of big business. You know, so have I. I have supported many, many of the bills to try to provide incentives to bring businesses to our state and to have those large businesses expand. But I've always had in my heart, my first obligation, my first choice was to take care of small businesses in the state and families. More than 90 percent...Mr. President, could you give me the gavel please, I'm just getting distractions back here. [LB332]

PRESIDENT FOLEY: Members, please come to order. Thank you. [LB332]

SENATOR SMITH: Thank you. You know, more than 90 percent of our small businesses pay through the pass-through individual tax brackets. And I'm trying my best to find a path forward for those small businesses to be able to have more of their money and collectively be able to invest more in Nebraska. They are the economic engine of our economy in our state. They drive our state forward. And we need to help them. Yes. If we are to have long-term property tax relief for agriculture, we have to grow all sectors of our state, because as we increase the number of taxable units, taxable units that are not necessarily agricultural taxable units, small businesses and families, then we have more taxable units to spread those costs across. And that's the way our state grows. We do not have a stagnant pie. We can expand the size of that pie if you believe in economic policy. So, Senator Briese, I'm sorry you didn't have your way and get your bill out to the floor. I didn't have my way either. But you know what? I've been at this for seven years and I'm dedicated to doing this and I'm tired of being...having the distractions, the discredit of my intentions and my efforts and the efforts of my colleagues that are probusiness and they want these things addressed in the state and the creation of confusion around what is really being dealt

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

Floor Debate  
May 04, 2017

---

with here. We had tax relief in front of us and we denied tax relief to our small businesses and to our families. And why? Because it's not property tax. Because property tax was not enough. That is senseless to deny tax relief simply because property tax was not enough. That is not the way you unite our state. That is not the way you grow our state. And again, for my rural colleagues, they know that I worked in good faith with them for more than a year to try to get us to this point. Pretend time is over. We kill tax relief this year, we kill tax reform. And evidently, voting against tax relief and reform and then saying you're a champion of property tax is not a contradiction. [LB332]

PRESIDENT FOLEY: Time, Senator. [LB332]

SENATOR SMITH: Thank you. [LB332]

PRESIDENT FOLEY: Thank you, Senator Smith. Senator McCollister. [LB332]

SENATOR MCCOLLISTER: Thank you, Mr. Lieutenant Governor. Good afternoon, colleagues. I can't top the drama that we've heard this afternoon, but I would like to make a couple quick comments. This is what we...why we're here. This is the essence of our legislative governance, and I welcome it. As you well know, state budget has two operating parts: revenue--money in; and expenses--money out. We can increase income or we can reduce expenses, or we can increase income and reduce expenses. Fortunately, today we have a bill coming up on the agenda which will enable us to enhance revenues. LB44 by Senator Watermeier will give us the ability to tax Internet sales. We need to look at LB44 and pass LB44. In addition, Senator Briese and I had two bills that expanded our Nebraska's narrow sales tax information. So we need to expand sales tax if we want to increase revenues. With that, I'll yield the balance of my time to the Chair. [LB332 LB44]

PRESIDENT FOLEY: Thank you, Senator McCollister. Senator Brasch. [LB332]

SENATOR BRASCH: Thank you, Mr. President. And thank you, colleagues. Would Senator Briese yield to a question please? [LB332]

PRESIDENT FOLEY: Senator Briese, will you yield please? [LB332]

SENATOR BRIESE: Yes, I would. [LB332]

SENATOR BRASCH: Please help me remember, did you say you are or are not familiar with the content of AM1332? [LB332]

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

Floor Debate  
May 04, 2017

---

SENATOR BRIESE: Somewhat familiar. I just thumbed through it here quickly, but I think most of the portions of it we've dealt with before in other contexts. [LB332]

SENATOR BRASCH: Okay. And what I'm wondering is, I'm doing the same thing, reading through it, and when you said you could not support the part of the LB461 which basically the ag part was a combination of LB602 and LB338. Some of that same language is there and he's even moved away from the eight-year Olympic average into a three year. Are you aware of that? [LB332 LB461 LB602 LB338]

SENATOR BRIESE: No, I wasn't aware of that. [LB332]

SENATOR BRASCH: So, I would just hesitate with caution to all senators before you give a band of approval to something that we haven't read through. I know we're all very anxious for relief, but something that my folks taught me when I was very little was, all that glitters is not gold. And so, with that said, I do think that this has been rushed. I don't want to take time on the floor to quiz our good colleague, Senator Krist, because a lot of time and study and edits and changes and hearings were held to try to bring something forward that the counties could live with, that the committee could have, that the Revenue Department, a working vehicle that could find reform first and foremost in the economy that exists today. We don't want to put stone soup together where we have a bunch of rocks with broth. We need something with a firm foundation, something that we may need to live with for many years. To quote Senator...former Lieutenant Governor Lavon Heidemann, he supports it for the future outlook. And so again, thank you, Senator Briese, for clarifying, because I think if you read it, there's parts in there if you did not agree with LB338, LB602, you may not agree with this. Thank you, Mr. President. Thank you, colleagues. [LB332 LB338 LB602]

PRESIDENT FOLEY: Thank you, Senator Brasch. Senator Larson. [LB332]

SENATOR LARSON: Thank you, Mr. President. I've heard a lot on the floor this afternoon. Would Senator Briese yield to a question? [LB332]

PRESIDENT FOLEY: Senator Briese, would you yield please? [LB332]

SENATOR BRIESE: Sure. [LB332]

SENATOR LARSON: Thank you, Senator Briese. You know, I've heard a lot from a lot of people about tax relief and what is the right type of tax relief. And if I remember right, you

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

Floor Debate  
May 04, 2017

---

introduced a bill in the Revenue Committee that would, essentially, get rid of many sales...many exemptions to our tax code to help fund property tax relief, correct? [LB332]

SENATOR BRIESE: Yes. [LB332]

SENATOR LARSON: And you support that bill. [LB332]

SENATOR BRIESE: Yes. [LB332]

SENATOR LARSON: All right. What if we...if you...would you support, if I introduced a constitutional amendment next year to expand all forms of gaming and allow Class III gaming with all the revenues...part of it going to the problem gambling fund, which I know Senator Krist is very dear to, but minus that portion, all going into the Property Tax Credit (Cash) relief Fund. Would you support that type of amendment? [LB332]

SENATOR BRIESE: I'm philosophically opposed to the expansion of gaming...gambling, so I probably wouldn't at this point, but I won't close the door. [LB332]

SENATOR LARSON: Okay. Thank you. Well, and I guess...that's part of the point that I've heard from, you know, I consider myself very conservative, but gaming is one of the issues that I've always supported during my time in the Legislature. And I consider...I really do like Senator Briese and I'm not trying to pick on him because I could pick on many of you on this floor in terms of we talk about property tax relief, property tax relief, and property tax relief. Yet, we're willing to get rid of tax exemptions, we're willing to sometimes which could be considered a tax increase, but we're not willing, because of the type of revenue it might be, to expand gaming in the state of Nebraska. We would rather see Nebraska gaming dollars flood into South Dakota, Iowa, Kansas, Colorado and Missouri, because did you know that 93 percent of Nebraskans live within a hundred miles of casinos, 76 percent live within 50 miles of a casino. So we hear about property tax relief. I would happily introduce that amendment. All the money goes to property tax relief all across the state minus what goes into the problem gambling fund because look, there are...whether it is alcohol, tobacco, or gaming, there are always going to be those that have addiction. I understand. But in the end, if you want to look at all the approaches, let's look at all the approaches. And I know this is one of those issues that I disagree with many of the fellow conservatives in this body. But in the end, if we were true to the concept of property tax relief, I mean truly willing to look at every aspects of that, that is where we need to be. I know Senator Briese passed out a poll that the Reform for Nebraska passed out that...if it was put on the ballot, the people would vote for a sales tax increase to fund property tax relief. I can guarantee you, Senator Briese, that if we had another poll...that if we expanded gaming and it all went to property tax relief, I bet the numbers would be even better because the sales tax is on everyone.

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

Floor Debate  
May 04, 2017

---

Those that choose to go game do it, and, frankly, I've actually polled the issue in my district, I have 200 miles of South Dakota border; I also have the oldest demographic district in the state and gaming is overwhelmingly supported because many of them drive up to South Dakota once or twice a month with a budget... [LB332]

PRESIDENT FOLEY: One minute. [LB332]

SENATOR LARSON: ...or Iowa, the Hard Rock Casino, and that's a form of entertainment. So, I guess I find it as much as I hear property tax relief, and we didn't do this kind, that property tax relief has been introduced, but we don't...we want property tax relief but not at the expense of expanding gaming in the state of Nebraska. And, frankly, that is wrong. We just don't want...we want property tax relief, we're willing to raise taxes, but we're not willing to expand gaming. All of our citizens can go to every state around us, but we're better than they are and we're willing to pay higher property taxes because of it. Thank you. [LB332]

PRESIDENT FOLEY: Thank you, Senator Larson. Senator Wayne. [LB332]

SENATOR WAYNE: Thank you, Mr. President. Well, the one thing I'm finding out being down here is it is very hard for this body to stay consistent. And I think consistency would go a long ways. Here's why I say that. I'm going to give two examples quickly then I'm going to sit down, because it's part of my frustration. So last night and the night before, we kept hearing about Title X funding and we will derail the budget if we don't get it done. The next day I hear we got to have 33 so let's everybody move forward. But those personal beliefs on either side are just as strong. So at one moment, we're going to be here for a special session, but it's not okay for the other side to feel that way. I have a problem with that. Then I also heard last night that this is a budget bill. Whether you are a Democrat, Republican, Conservative, Liberal, Progressive, everybody said that last night. This is a budget bill. We should not be having policy discussions and policy changes in a budget bill. But we're doing that right now. We are doing that right now. I'm just asking for everybody here to be consistent. I know that is kind of hard. But I really don't believe in situational ethics. You all came down here with a core set of beliefs. I heard this all last night. And I'm just asking for us to be consistent. Okay. I just got a note passed. How much time do I have left? [LB332]

PRESIDENT FOLEY: About three minutes and 15. [LB332]

SENATOR WAYNE: Three minutes. Okay. I can talk for 2:30. But I'm not going to. So, I'm going to keep reminding the body, and I guess I'll be somewhat of the conscious voice of the body, let's be consistent. We can have a conversation about property tax relief, and I hope next year my name is on a bill that will help bring that across the state. But we're talking about a

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

Floor Debate  
May 04, 2017

---

budget. We got to pass the budget, we got to figure out how to have a common ground. Digging in our heels on both sides on policy discussion is not going to get it done. So I hope this body will start being consistent. We can have all the discussions we want. Yesterday I talked about the budget, but I talked about a budget issue that was in the budget. I'm not talking about policy changes and things that I think deserve their own bills and we can have a bigger conversation about. So, just be consistent when we're talking about things and just be consistent when we're voting on things and be consistent of what you say on the mike so we can stay consistent throughout what we do and we know where everybody is at. I know I'm asking a lot, but that's what I'm asking today. And with the remainder of my time, I would like to yield it to Senator Krist. [LB332]

PRESIDENT FOLEY: Thank you, Senator Wayne. Senator Krist, 2 minutes. [LB332]

SENATOR KRIST: Okay, I won't take all of that. Thank you, Senator Wayne, for your courtesy. Senator Stinner, I want to thank you for allowing me to put this amendment on. And I...true to my word I will either make it revenue neutral and make it pass or we will not tie your budget bill up. To the Speaker, thank you for your courtesy in terms of having a discussion. To those of you who were interested and were listening, once again, I will say this particular piece of legislation, as an amendment, can be filed again. It can be segmented. The ideas are there. I believe that they're valid. I think there might be some tweaks, as Senator Brasch said, that might have to be made. Of course, her bill was tweaked and Erdman's bill was tweaked and we had that coming out. So it's not like we can't tweak it again. But with that, I would just say that the discussion has been a good one. And I look forward to hearing the bill that will come out of Senator Smith after the conclave that he had in his office with the Governor, because I'm sure there will be another bill that comes out that we can look at. [LB332]

PRESIDENT FOLEY: One minute. [LB332]

SENATOR KRIST: And so thank you and thanks for the time. And with that I would like to pull, reluctantly, but pull AM1332. [LB332]

PRESIDENT FOLEY: AM1332 is withdrawn. We're back on AM1298, Senator Stinner's amendment. Three senators in the queue. Senator Groene. [LB332]

SENATOR GROENE: Thank you, Mr. President. I don't think I mentioned this handout I handed out, it's that colored one with the property taxes, the last time I stood up. I won't say who I got it from, because he doesn't want to take ownership. I'm just joking. Senator Harr forwarded it to me. Property taxes--if you want to know why ag land is...we're in the orange on farm real estate taxes, a share of farm real estate values--it's pretty high. Darn near \$1 per \$100 of valuation they

Floor Debate  
May 04, 2017

---

pay every year. Same with real estate taxes, share farm production. This was 2015. It was still a halfway decent income. You could survive a little bit in '15, but it was 5.4 percent. I don't know what it would be now. It would probably be 30, 40 percent. Taxes compared to what the income is. Probably even higher Senator Friesen and Hughes would say. We have a property tax problem, we have a taxing problem, and we have to control the spending. We just absolutely have to control, put on the brakes. We can get by. Just cut a little here, cut a little there, take away a little benefit here, raise the deductibles on government health insurance. You know, there's a conclave over there talking...was talking about teachers and school employees and poor individuals who get a great retirement package, but also want a bonus when they retire at 55, and then they want to teach again. That's an expected right, expected benefit. It's unheard of in a free enterprise system, unless you're downsizing or closing down a factory, then some of the top people get a kickback when they retire early. But that is just expected. We can't cut any of that, that has got to be given. Those things need to disappear. It all adds up. A little here, if you ever managed anything in tough times, you trim a little here, take a little there, and pretty soon nobody noticed it even existed and you got a balanced budget. But we can't do that. We just got to fight amongst ourselves, between the sales taxpayers, the income taxpayers, and the property taxpayers. I might bring my LB640 back, folks. That did answer the question on getting property taxes back in line and making it fair for urban and rural individuals and how you fund your schools. And, yes, I used the Property Tax Credit (Cash) Fund because of the A bill but should give a lesson there what the problem is, which Senator Friesen has said, and Senator Hughes, on the TEEOSA formula. The shift, now I was...LB640 only, Senator Friesen and I, it was his priority bill, just tried to fix part of the shift that has happened in the last 20 years in property tax funding of the schools and it had a \$220 million bill, just to correct a partial correction of the shift that has happened in this state, the funding of our schools to property taxes. But, oh no, we couldn't do that. The urban folks couldn't give up just a little bit of their Property Tax Credit (Cash) Fund; which by the way, your taxes have gone down. The Property Tax Credit (Cash) Fund had exceeded your increases, so it actually helped urban individuals pay less taxes. Not in rural Nebraska. Valuations and taxes went up faster, one and a half, two times faster than the credit could keep up with. We were just trying to correct that. We might bring it back, might adapt it a little bit so the shift is more equalized between urban and rural. But it fixes it long range. Then if you could roll Senator Brasch valuation into that, those two mesh well together, and Senator Erdman's, because now we've capped the answer instead of the variables. We go around here capping variables, trying to cap variables, but if you know anything about math,... [LB332 LB640]

PRESIDENT FOLEY: One minute. [LB332]

SENATOR GROENE: ...that doesn't work. You got to cap the answer. So maybe we can look back again at LB640 and bring it back to the floor, because there is something alive yet on property taxes and that's LB640. It's only had its first three hours. We can bring that back; we can

Floor Debate  
May 04, 2017

---

work together, adapt it a little, and put something in place. Something that guarantees it long-range fairness in the property tax funding of our schools, which is, no matter whose bill it is, it's 50 to 75 percent of what you pay in property taxes are those schools, keep them doors open and to give these retirement bonuses to people 55, we got to keep doing that, too, it seems like. So anyway, I might bring it back. Senator Friesen has been taking about it and talking to Senator Brasch and Erdman and we might bring it back in some type of form where it actually fixes it. [LB332 LB640]

PRESIDENT FOLEY: Time, Senator. [LB332]

SENATOR GROENE: Thank you. [LB332]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Friesen. [LB332]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. I think this has been the most invigorating discussion I've had in three years. It's been a lot of fun, guys. I appreciate the discussion. I really do. I think this is the first time probably that we've had, I would say, a full and fair debate. Now, we can talk about the amendment. We haven't had time to read it yet, but just the thought process of where we're going from here. And I think the possibilities, you know, people at the beginning of the session, when we talked about property tax relief, said that when the budget shortfall that we have like this that there was no way we could go forward with any kind of property tax relief or tax relief in general. And I always said that shouldn't matter. We'll deal with the budget issues on a separate plane; let's talk about tax relief in a different form, whether it is income or property taxes or both. But I think from what I've always heard, I mean, I have been consistent from the beginning--I want comprehensive tax reform, property taxes have to be up front. We have gone too long by just kicking the can down the road because we could afford to pay it. We no longer can. And so I look forward to further debate and whatever direction this might take. But to me and the overall budget scheme, you know, the first year I was here, we worked on a budget where it took us probably all of three hours to send it out and I thought that was wrong. It's one of the most important things we do and we spent the least amount of time. This year at least it has been debated. Win or lose, we've had the debate, we've had our fight. And in the end, we have to come together and we will pass a budget. But it will be a budget that we can go home and say that we support it or not. But we will have had the discussion at least about what was most important to us and what wasn't. And I look forward to more debate about the property tax issue because I think there is more we can do. Thank you, Mr. Lieutenant Governor. [LB332]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Stinner you're recognized to close on AM1298. He waives close. The question before the body is adoption of AM1298. Those in

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

Floor Debate  
May 04, 2017

---

favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.  
[LB332]

CLERK: 29 ayes, 6 nays, Mr. President, on the adoption of Senator Stinner's amendment.  
[LB332]

PRESIDENT FOLEY: AM1298 is adopted. [LB332]

CLERK: I have nothing further, Mr. President. [LB332]

PRESIDENT FOLEY: Senator Wishart for a motion. [LB332]

SENATOR WISHART: Thank you, Mr. President. I move to advance LB332 to E&R for engrossing. [LB332]

PRESIDENT FOLEY: Members, you heard the motion to advance LB332 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB332 advances. Moving on the agenda, Select File, State Claims bill. Mr. Clerk. [LB332]

CLERK: E&R amendments first of all, Senator. (ER84, Legislative Journal page 1297.) [LB171]

PRESIDENT FOLEY: Senator Wishart. [LB171]

SENATOR WISHART: Mr. President, I move the adoption of E&R amendments to LB171.  
[LB171]

PRESIDENT FOLEY: Members, you've heard the motion to adopt the E&R amendments. Those in favor say. Those opposed say nay. E&R amendments are adopted. [LB171]

CLERK: I have nothing further on the bill, Senator. [LB171]

PRESIDENT FOLEY: Senator Wishart. [LB171]

SENATOR WISHART: Mr. President, I move to advance LB171 to E&R for engrossing.  
[LB171]

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

Floor Debate  
May 04, 2017

---

PRESIDENT FOLEY: Members, you've heard the motion to advance LB171 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB171 advances. Items for the record, Mr. Clerk. [LB171]

CLERK: Very quickly, Mr. President. A hearing notice from the Executive Board and a new resolution: Senator Baker offers LR128. That will be laid over. That's all that I have. (Legislative Journal pages 1339-1340.) [LR128]

PRESIDENT FOLEY: Members, we're going to move on to Final Reading now. If you could please return to your desks. Members, we're now in Final Reading. First bill is LB20. Mr. Clerk. [LB20]

CLERK: (Read LB20 on Final Reading.) [LB20]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB20 pass? Those in favor vote aye; those opposed vote nay. Have you all voted that care to? Record, please. [LB20]

CLERK: (Record vote read, Legislative Journal pages 1340-1341.) 41 ayes, 0 nays, 7 present and not voting, 1 excused and not voting, Mr. President. [LB20]

PRESIDENT FOLEY: LB20 passes. We'll now proceed to LB63. [LB20 LB63]

CLERK: (Read LB63 on Final Reading.) [LB63]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB63 pass? Those in favor vote aye; those opposed vote nay. Have you all voted that care to? Record, please. [LB63]

CLERK: (Record vote read, Legislative Journal page 1341.) 44 ayes, 0 nays, 4 present and not voting, 1 excused and not voting, Mr. President. [LB63]

PRESIDENT FOLEY: LB63 passes. Proceeding now to LB138. [LB63 LB138]

CLERK: (Read LB138 on Final Reading.) [LB138]

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

Floor Debate  
May 04, 2017

---

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB138 pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Have you all voted that care to? Record, please. [LB138]

CLERK: (Record vote read, Legislative Journal page 1342.) 48 ayes, 0 nays, 1 excused and not voting, Mr. President. [LB138]

PRESIDENT FOLEY: LB138 passes with the emergency clause attached. Next bill, LB142E. [LB138 LB142]

CLERK: (Read LB142 on Final Reading.) [LB142]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB142E pass with the emergency clause attached? All those in favor vote aye; those opposed vote nay. Record, please. [LB142]

CLERK: (Record vote read, Legislative Journal pages 1342-1343.) 48 ayes, 0 nays, 1 excused and not voting. [LB142]

PRESIDENT FOLEY: LB142E passes with the emergency clause attached. Proceeding now to LB154. [LB142 LB154]

CLERK: (Read LB154 on Final Reading.) [LB154]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB154 pass? Those in favor vote aye; those opposed vote nay. Have you all voted that care to? Record, please. [LB154]

CLERK: (Record vote read, Legislative Journal pages 1343-1344.) 48 ayes, 0 nays, 1 excused and not voting, Mr. President. [LB154]

PRESIDENT FOLEY: LB154 passes. Proceeding now to LB159E. [LB154 LB159]

CLERK: (Read LB159 on Final Reading.) [LB159]

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

Floor Debate  
May 04, 2017

---

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB159E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB159]

CLERK: (Record vote read, Legislative Journal page 1344.) 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting. [LB159]

PRESIDENT FOLEY: LB159E passes with the emergency clause attached. Proceeding to LB176. [LB159 LB176]

CLERK: (Read LB176 on Final Reading.) [LB176]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB176 pass? Those in favor vote aye; those opposed vote nay. Have you all voted that care to? Record, please. [LB176]

CLERK: (Record vote read, Legislative Journal page 1345.) 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President. [LB176]

PRESIDENT FOLEY: LB176 passes. Proceeding to LB231. [LB176 LB231]

CLERK: (Read LB231 on Final Reading.) [LB231]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB231 pass? Those in favor vote aye; those opposed vote nay. Have you all voted that care to? Record, please. [LB231]

CLERK: (Record vote read, Legislative Journal pages 1345-1346.) 48 ayes, 0 nays, 1 excused and not voting, Mr. President. [LB231]

PRESIDENT FOLEY: LB231 passes. Proceeding now to LB234E. [LB231 LB234]

CLERK: (Read LB234 on Final Reading.) [LB234]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB234E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB234]

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

Floor Debate  
May 04, 2017

---

CLERK: (Record vote read, Legislative Journal page 1346.) 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President. [LB234]

PRESIDENT FOLEY: LB234E passes with the emergency clause attached. Proceeding now to LB239. [LB234 LB239]

CLERK: (Read LB239 on Final Reading.) [LB239]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB239 pass? Those in favor vote aye; those opposed vote nay. Have you all voted that care to? Record, please. [LB239]

CLERK: (Record vote read, Legislative Journal page 1347.) 48 ayes, 0 nays, 1 excused and not voting, Mr. President. [LB239]

PRESIDENT FOLEY: LB239 passes. Proceeding to LB241. [LB239 LB241]

CLERK: (Read LB241 on Final Reading.) [LB241]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB241 pass? Those in favor vote aye; those opposed vote nay. Record, please. [LB241]

CLERK: (Record vote read, Legislative Journal pages 1347-1348.) 48 ayes, 0 nays, 1 excused and not voting, Mr. President. [LB241]

PRESIDENT FOLEY: LB241 passes. Proceeding now to LB255E. [LB241 LB255]

CLERK: (Read LB255 on Final Reading.) [LB255]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB255E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB255]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1348-1349.) Vote is 48 ayes, 0 nays, 1 excused and not voting, Mr. President. [LB255]

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

Floor Debate  
May 04, 2017

---

PRESIDENT FOLEY: LB255E passes with the emergency clause attached. Proceeding to LB255AE. [LB255 LB255A]

ASSISTANT CLERK: (Read LB255A on Final Reading.) [LB255A]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB255AE pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB255A]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1349.) Vote is 48 ayes, 0 nays, 1 excused and not voting, Mr. President. [LB255A]

PRESIDENT FOLEY: LB255AE passes with the emergency clause attached. Proceeding to LB264. [LB255A LB264]

ASSISTANT CLERK: (Read LB264 on Final Reading.) [LB264]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB264 pass? Those in favor vote aye; those opposed vote nay. Record, please. [LB264]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1349-1350.) Vote is 48 ayes, 0 nays, 1 excused and not voting. [LB264]

PRESIDENT FOLEY: LB264 passes. Proceeding to LB306. [LB264 LB306]

ASSISTANT CLERK: (Read LB306 on Final Reading.) [LB306]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB306 pass? Those in favor vote aye; those opposed vote nay. Record, please. [LB306]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1350.) Vote is 48 ayes, 0 nays, 1 excused and not voting. [LB306]

PRESIDENT FOLEY: LB306 passes. Proceeding to LB315. [LB306 LB315]

Floor Debate  
May 04, 2017

---

ASSISTANT CLERK: Mr. President, Senator Wayne would move to return the bill for specific amendment, that being strike the enacting clause. (FA73, Legislative Journal page 1351.)  
[LB315]

PRESIDENT FOLEY: Senator Wayne, you're recognized to open on your return motion.  
[LB315]

SENATOR WAYNE: Thank you, Mr. President. Well, earlier, guys--I guess, colleagues--I brought up consistency. And now that everybody is in the Chamber I feel it's a obligation to talk a little bit about consistency. And the reason I picked this bill and this moment was a couple days ago on consent calendar we as a body voted 46-0, 2 abstain...2 not here, I mean, to allow ex-felons the right to own a deadly weapon. Everybody is looking at me a little confused right now. LB478, a bill that I support and a bill that I think is constitutional, but many of you who refused to vote for LB75 because you thought it was unconstitutional, all turned around and voted for that bill for the same problems. LB478 allows a deadly weapon, which this body defined as a deadly weapon to be exempt if it was a butcher knife, and as long as you had a recreational permit. The Supreme Court has clearly said in District of Columbia v. Heller that knives are a part of the Second Amendment, the right to bear arms. So, colleagues, we can stand here and say if it's hunting, recreation, fishing, and I can go get a permit which doesn't require a background check, doesn't require anything, I can go and own a deadly weapon. We voted to allow that to happen but we won't vote to allow people to vote? We voted to allow an ex-felon to go out and get a butcher knife and it's okay as long as they have a fishing permit, which I can go on the Internet right now and sign any one of you up for, for a small fee. But we won't allow them to go in and vote. We have to be consistent, colleagues. And I'll tell you what, I support Senator Groene's bill. And if the Governor vetoes it for the same reasons that supposedly mine he issued a veto for, I will help him with the override because it's not unconstitutional. It is not an encroachment or a legislative pardon, because the Nebraska Supreme Court clearly said that a pardon is the restoration of all rights. My bill just does voting. His bill only allows when you have a recreational permit to have a butcher knife, even a sword, even archery and a bow and arrow. So we're worried about allowing felons to vote. Just remember, colleagues, 46 of us, every time through voted to allow a felon...ex-felon to have a deadly weapon. So now I'm asking you to make sure to keep the consistency going come Monday to allow them at least a vote. Again, LB478, go read it for yourself, subsection 4. As long as they have a recreational license, they can own a butcher knife. It is no longer considered a felon in possession of a deadly weapon. We decided that, that it was a deadly weapon. We excluded that this year. So maybe next year I have to come back with a bill that says if you live outside of Sarpy, Douglas County, and Lancaster County and you're an ex-felon, you should be able to vote. Maybe we'll feel better about that. Or maybe we can be consistent, starting here today, going through Monday that if they can own a deadly weapon and go fish, they should be able to walk into a poll and go vote. With that, I withdraw my motion, Mr. President. [LB315 LB478]

Floor Debate  
May 04, 2017

---

PRESIDENT FOLEY: The motion is... [LB315]

SENATOR WAYNE: I do not want to withdraw my motion. I thought I did. [LB315]

PRESIDENT FOLEY: Senator Chambers, you're recognized. [LB315]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, since you all pray I want to start my conversation with a word you're all familiar with, amen, brother. Members of the Legislature, what Senator Wayne said is very, very true. I'm going to tell you why they fear...people like the Governor fear a person voting more than he fears somebody with a gun...well, in this case a knife, because the vote is more powerful than a knife. They want to strip these men and women of something that is powerful, that is essential to the proper functioning of a constitutional democracy. Why in the world you would want to strip a person of the right to participate in civic activity is beyond my comprehension. But when I consider the nature of that person called the Governor, whom Jesus said would have more trouble getting into heaven than a camel would have going through the eye of a needle, it's not that hard to understand. I, when I talk to young people, especially young black people, emphasize the value of education. And I don't preach at them. I tell them, listen to me. Watch the way people respond to what I say. I've never pulled a knife on a cop. I've never pulled a gun on a cop or on anybody. But they fear my words more than they fear people with a gun. They would like me to come with a gun because then they could put me six feet under. But a powerful, functioning brain is more powerful than a loaded gun unless of course you're in a gun fight. If this Legislature refuses to override the Governor's veto, then whenever that point is reached I will have many things to say during the rest of the session. Those of us who have been concerned about crime and punishment, fair, equitable judicial proceedings, know that the outcome that is most desired--because you can't change the past--is to make sure that the person who has been convicted, who has served his or her debt to society should now be restored to the human race or the free world, as they call it. If I borrow \$100 from Senator Watermeier and I pay him, there's nothing Senator Watermeier can demand of me after that. The debt has been paid. It has been settled. When we take a person's freedom, we have taken from that person the most important thing that he or she has. Along with the loss of freedom goes the loss of the ability to determine what you're going to do from the time you get up in the morning until the time you go to bed at night and even the time you get up and the time you go to bed will be governed by somebody else. You lose your personhood. You lose your selfhood. And that's why imprisonment was used before they started all this butchery called capital punishment. They knew the damage that it would do to a person and there have been people who chose death over imprisonment. If we are that civilizing element in society--and by we, I mean the lawmakers--we should enact wise and just laws. [LB315]

PRESIDENT FOLEY: One minute. [LB315]

Floor Debate  
May 04, 2017

---

SENATOR CHAMBERS: And they should be aimed at either facilitating the exercise of rights, the protection of rights, or believe it or not, setting a standard and giving a message to society of the way things ought to be even if they are not like that. And if you would be one of those people who would interfere with society and individuals functioning in the way that they ought to be allowed to function, the coercive power of the state will be brought to bear on you and you will be deprived of your freedom. But once you have paid the debt that the Legislature itself imposed, why will the Legislature demand any more? And if it happened to anybody on this floor, that anybody that it happened to would want some mercy, would want some compassion, would hire a lawyer to try to beat the rap and if you couldn't beat the rap, get as mild a sentence as possible. I will stop for now, but my light is on. Thank you, Mr. President. [LB315]

PRESIDENT FOLEY: Thank you, Senator Chambers. (Visitors introduced.) Continuing discussion, Senator Wayne. [LB315]

SENATOR WAYNE: And per the Speaker rules of 15 minutes, I will end this motion with this final words. But I do think it's important, because this isn't just this bill. I showed my hand ahead of time, colleagues. I added a two year to Senator Groene's bill. I also added a two year to Senator Lowe's bill, because I wanted you guys to read it. It dealt with ex-felons. And in Senator Lowe's bill's situation, removing that application you allow ex-felons to have your personal information when you go to a car dealership. So they can be a part of a car dealership and get all your personal information. We can get them a recreational license so they can go out and have a butcher knife. But when it comes time to having a voice in the political process, they can't. They have to sit out and wait. Colleagues, it's time to start being consistent. Whether we're talking about the budget, whether we're talking about property tax relief, and whether we're talking about ex-felons and voting rights, it's time to be consistent. And with that, I'll withdraw my motion, Mr. President. [LB315]

PRESIDENT FOLEY: Thank you, Senator Wayne. The motion is withdrawn. Mr. Clerk, please read the bill. [LB315]

ASSISTANT CLERK: (Read LB315 on Final Reading.) [LB315]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB315 pass? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB315]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1351-1352.) Vote is 46 ayes, 0 nays, 2 present and not voting, 1 excused and not voting, Mr. President. [LB315]

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

Floor Debate  
May 04, 2017

---

PRESIDENT FOLEY: LB315 passes. Proceeding now to LB383. [LB315 LB383]

ASSISTANT CLERK: Mr. President, on LB383 Senator Chambers would move to return the bill to Select File for specific amendment, specifically to strike the enacting clause. (FA74, Legislative Journal page 1352.) [LB383]

PRESIDENT FOLEY: Senator Chambers, you're recognized to open on your motion. [LB383]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, this is Senator Quick's bill and I would like to ask him a question or two before I begin. [LB383]

PRESIDENT FOLEY: Senator Quick, would you yield, please? [LB383]

SENATOR QUICK: Yes, I will. [LB383]

SENATOR CHAMBERS: Senator Quick, the one liner says, this will change membership provisions for certain municipal community redevelopment authorities. Does that change in membership exclude ex-felons? [LB383]

SENATOR QUICK: I can't answer that. I don't... [LB383]

SENATOR CHAMBERS: But there is nothing in it which says that an ex-felon cannot be on one of these authorities, is there, in your bill? [LB383]

SENATOR QUICK: No. No. [LB383]

SENATOR CHAMBERS: Also, citizens advisory review committees, there is nothing that bars an ex-felon from being on a citizen advisory review committee in your bill either, is there? [LB383]

SENATOR QUICK: I would say it probably doesn't address that, no. [LB383]

SENATOR CHAMBERS: And on planning commissions, the same question and I think it's the same answer and that's all that I will ask you. Thank you. And I'm not going to go beyond 15 minutes on your bill. [LB383]

Floor Debate  
May 04, 2017

---

SENATOR QUICK: Thank you. [LB383]

SENATOR CHAMBERS: Members of the Legislature, once the genie is out of the jar, it's hard to put the genie back. I'm going to tell you all why this bothers me so much. While the discussion of property taxes was going on I stayed out of it. You all were interested in that so you talked a long time. There was some testiness that developed when Senator Krist offered an amendment. I didn't even come up to jump into that fray. I listened to one of my children who is not so fractious, Senator Friesen, who has been participating quite a bit, and he said, quote, this has been one of the most invigorating discussions in which he had participated; and he used the word invigorating. I pay better attention to you all than the rest of you do. I didn't have the interest in participating in those discussions because I knew a lot of you would talk as you did. This issue I have a tremendous amount of interest in. Those people who pray every morning, even if they don't raise the issue, every one without exception if you put the question would say, I do indeed believe in second chances. There is a word in all of these Christian versions and brands of religion and that word is redemption, redemption. If you...well, even in financial realms, and I'm sure one of the bankers would be familiar with the term redemption when it comes to certain debts or loans or whatever and you take care of it. But when it comes to our brothers and sisters we say no. The word felon, like love, covers a multitude of sins. A felony could be writing a check for more than a certain amount of money. A felony could be cutting somebody's head almost off, but not completely. So it's a general term that says everything and touches nothing specifically unless you make that word a description that you tailor to fit specific circumstances. So why in the world would we put somebody outside the pale when he or she has met every requirement that the society put on that person? The very Legislature that criminalized the behavior set the punishment for engaging in that behavior. Once that debt is paid, no more can be demanded of that person. When I was a little shaver...that doesn't mean I was a little person who was a barber, that was a term that they used for small people who were of a certain height and a certain age. There was a song and it was about Jesus paid the debt. He paid the debt for you and me, so you don't have to pay it. And you know what paying that debt for you and me meant, if you believe these things? The wages of sin is death. It didn't mean a physical death because the good and the evil die. If death was reserved only for the wicked, then Jesus logically would have to have been wicked. It meant a different kind of death. And in Revelation, it talks about all liars and mentions some other people who have their part in the lake of fire, which is the second death. And it's that second death that Jesus redeemed all of you sinners from. Jesus paid the debt so you don't have to go into the lake of fire. And you accept that and you expect Jesus to deliver on his word. And if God is in one of those sour moods which makes him feel like destroying the world, his son would say, uh-uh, pops, not today, back off. I paid the debt for them and I did it according to the terms you set. And his Father would say, well, you know, when you've been around as long as I have, you get a little forgetful. But that's why we have children so they can remind us of those better moments that we had but which we might forget, but we can be reminded of. And when those children come to us, they can melt the hardest heart. They

Floor Debate  
May 04, 2017

---

can find that little crease, that little crevice in a mean spirit and compassion can find its way in and widen it and let that forgiveness flow in and this mean, angry, destroying God becomes the one who gave life to all things. Even when you use the analogy of the scapegoat, the animal which in a ceremony was brought into the middle of all of these wrongdoing people and the sins were put on that animal and contrary to what some people think, the scapegoat was not killed. The scapegoat was allowed to leave. And in leaving, that scapegoat carried away all of the wrongs that these people had committed. And all of these notions go to the idea of saying that whatever a person had done, there is a means by which that person can be restored to what he or she was before the fall. And every one of us without exception would want that opportunity; every one of us. But we want to deny it to others. And if you believe in your Christianity and what Jesus told you, by the same measure that you mete out, it shall be used to judge you. Do you want to be judged the way you judge others? Does it give you a feeling of superiority to say, my brother, my sister stumbled but I didn't, and there but for the grace of God go I? You're putting a bad rap on God. God doesn't consider it grace. He doesn't elevate one of his children and make the other one fall. Both of them are the recipients of this grace, but human beings want to interfere with it. So when our brothers and sisters have paid their debt and they come out and the law has said that after they have been off paper for two years, they can vote. Well, if it's unconstitutional for them to vote as soon as they get out, it's unconstitutional for them to vote two years later. The Governor is making fools out of this Legislature and he's making a mockery out of one of the most important factors not only in religion, but in this society. [LB383]

PRESIDENT FOLEY: One minute. [LB383]

SENATOR CHAMBERS: One reason I told Senator Groene I would support his bill and I told a young man who came before us, I need some ex-felons who have made it, who came out of prison and did something so that I can show that because you had a failing it doesn't mark you forever. Most people like the Governor want to point to somebody who fell again and again and again. You all forgive the Governor and the Attorney General for violating federal law by trying to purchase illegal drugs and bring them into the country. The Governor didn't want to be brought to book for that, nor did the Attorney General. And you all don't even talk about it. These are people who want to vote. They have to register. They are seen at the time that they register and they want to be citizens again. Thank you, Mr. President. [LB383]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Chambers, you're recognized. [LB383]

SENATOR CHAMBERS: And this is all that I'm going to say on this today. But it's been bubbling up in me. You all have heard of a guy named Job. Not Steve Jobs. His name was Jobs, it was not Steve Job. But Job was a very patient guy and he was the occasion for God and Satan to

Floor Debate  
May 04, 2017

---

have a little chat that they had on occasion. And Satan asked God would he like to have a cigarillo. God said, I don't mind if I do. So he got his cigarillo and Satan popped his finger and a little spark of fire and he lit God's cigarillo and God took a deep draw on it and blew halos, halos. And Satan was asking God, how can you be considered so great when there is nobody on Earth who does what you tell them to do? And here is Job, a hardworking man, married to a woman who was hard to live with based on the way the Bible projected it, because he at one time told her, you're like the silly women. Get away from me. That's the Bible, not me, I'm just quoting. So here is Job minding his own business, not knowing that he was the stakes in a wager between God and Satan. And God said, have you considered my servant, Job? And Satan said, I hadn't but now that you mention it, yeah. And a large number of very heavy burdens were placed on Job to test his faith and he did not waiver and fall. But while he was going through this, several of his friends came and they said, if you hadn't done wrong, this wouldn't happen to you. If you hadn't sinned, this wouldn't happen to you. And there happened to be a young guy there and he listened to them. He said, if I remain silent, I will burst. There is not always wisdom in gray hairs. There is not always truth being told by those who are old. Job did nothing wrong and began to explain to these older people who should have been wise enough to understand that the things that befall you on this Earth have nothing to do whatsoever with anything you may have done. Time and chance happen to all people. It took that one to say, stop, listen. And that's what Senator Wayne asked us to do with his bill. And it's what I'm asking that we do with reference to that veto. Think of how we want to be treated. Think of how Senator Groene rescued a young person who came to him and trusted Senator Groene to do something to help him. He wasn't off-put because Senator Groene can be gruff, that he can sound like a tiger or a lion just waiting to pounce on a lamb. He knew that Senator Groene was a man who could be appealed to and he would use his good offices to help a person who is turning over a new leaf to get a chance to do it. Senator Groene brought the bill, persuaded the Judiciary Committee, including myself, to send it out here. The Legislature voted for it and the Governor will sign it. Now let us extrapolate from that and give everybody else that second chance and not make them wait two years. If I have an obligation to feed my child in two hours, do I not have an obligation to feed my child right now if my child is hungry right now? There are so many analogies that can be made, which shouldn't have to be made. I'm now appealing to you, not as though you're religious people, not as though you're anything better or above anybody else, but just as a lawmaker... [LB383]

PRESIDENT FOLEY: One minute. [LB383]

SENATOR CHAMBERS: ...who believes in what the law is about and what function the law should be served. Anything we can do to help one of our brothers or sisters who has stumbled, who has lost his or her way is trying to find his or her way. Anything we can do to help that person we ought to. The voting itself is not a felony. The voting is an affirmation by that person that Father, I went against what you told me to do, but now I want to come home. I'm still your son. You're still my father. I'll be a good son. You be a good father and give me a chance to show

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

Floor Debate  
May 04, 2017

---

you what a good son can do who fell, who got up, and now wants to walk in the newness of life.  
Mr. President, I would withdraw that motion. [LB383]

PRESIDENT FOLEY: The motion is withdrawn. LB383, Mr. Clerk. [LB383]

ASSISTANT CLERK: (Read LB383 on Final Reading.) [LB383]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB383 pass? Those in favor vote aye; those opposed vote nay. Record, please. [LB383]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1352.) 48 ayes, 0 nays, 1 excused and not voting. [LB383]

PRESIDENT FOLEY: LB383 passes. Proceeding to LB430. [LB383 LB430]

ASSISTANT CLERK: (Read LB430 on Final Reading.) [LB430]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB430 pass? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB430]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1353.) Vote is 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting. [LB430]

PRESIDENT FOLEY: LB430 passes. Proceeding to LB455. [LB430 LB455]

ASSISTANT CLERK: (Read LB455 on Final Reading.) [LB455]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB455 pass? Those in favor vote aye; those opposed vote nay. Record, please. [LB455]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1353-1354.) Vote is 48 ayes, 0 nays, 1 excused and not voting. [LB455]

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

Floor Debate  
May 04, 2017

---

PRESIDENT FOLEY: LB455 passes. Proceeding now to LB464E. [LB455 LB464]

ASSISTANT CLERK: (Read LB464 on Final Reading.) [LB464]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB464E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Have you all voted that care to? Record, please. [LB464]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1354-1355.) Vote is 46 ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President. [LB464]

PRESIDENT FOLEY: LB464E passes with the emergency clause attached. LB519. [LB464 LB519]

ASSISTANT CLERK: Mr. President, a motion on the desk. Senator Hansen moved to return LB519 to Select File for a specific amendment, that amendment being AM1320. [LB519]

PRESIDENT FOLEY: Senator Hansen, you're recognize to open on your return motion. [LB519]

SENATOR HANSEN: Thank you, Mr. President, and good afternoon, colleagues. For point of quick refresher, LB519 is my consent calendar bill dealing with the unemployment accounts for certain part-time employees employed by government institutions. We adopted the amendment on Select File that it turns out had an error in it that I did not catch at that time. And I am asking you to return to Select File so we can correct that error in AM1320. [LB519]

PRESIDENT FOLEY: Thank you, Senator Hansen. Seeing no discussion, Senator Hansen...he waives close. The question before the body is, return the bill to Select File. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB519]

ASSISTANT CLERK: 41 ayes, 0 nays on the motion to return the bill, Mr. President. [LB519]

PRESIDENT FOLEY: The motion is adopted. Mr. Clerk. [LB519]

ASSISTANT CLERK: Mr. President, Senator Hansen would offer AM1320. (Legislative Journal page 1355.) [LB519]

PRESIDENT FOLEY: Senator Hansen, you're recognized to open on AM1320. [LB519]

Floor Debate  
May 04, 2017

---

SENATOR HANSEN: Thank you, Mr. President. AM1320 would strike...on page 6, lines 3 through 8, strike the new matter and reinstate the stricken matter. What we did on Select File was we clarified the operating date that current unemployment filings would operate under current law unless they were filed after the effective date of this act. We created a new subsection, but left some of the language in the old previous paragraph that would have been appropriate to strike. I would like to thank Andy up in Bill Drafters for catching this and bringing this to our attention and would ask the body to adopt AM1320. Thank you. [LB519]

PRESIDENT FOLEY: Thank you, Senator Hansen. Senator Chambers. [LB519]

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature, I support what Senator Hansen is doing. This shows the value of Final Reading and it's why I always vote no on suspending the rules so that the bills are not read if they're long bills. There have been times that very significant problems were found during the reading of a bill. But that's all that I wanted to point out. Thank you, Mr. President. [LB519]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Hansen, you're recognized to close on your amendment. He waives close. The question before the body is the adoption of AM1320. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB519]

ASSISTANT CLERK: 41 ayes, 0 nays on the adoption of the amendment. [LB519]

PRESIDENT FOLEY: AM1320 is adopted. Senator Hansen for a motion. [LB519]

SENATOR HANSEN: Thank you, Mr. President. I move we advance LB519 to E&R for engrossing. [LB519]

PRESIDENT FOLEY: Members, you've heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB519 advances. Proceeding now to LB558. [LB519 LB558]

ASSISTANT CLERK: (Read LB558 on Final Reading.) [LB558]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB558 pass? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB558]

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

Floor Debate  
May 04, 2017

---

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1355-1356.) Vote is 46 ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President. [LB558]

PRESIDENT FOLEY: LB558 passes. Proceeding to LB645. [LB558 LB645]

ASSISTANT CLERK: (Read LB645 on Final Reading.) [LB645]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB645 pass? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB645]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1356-1357.) Vote is 46 ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President. [LB645]

PRESIDENT FOLEY: LB645 passes. One additional bill on Final Reading, LB409E. [LB645 LB409]

ASSISTANT CLERK: (Read LB409 on Final Reading.) [LB409]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB409E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB409]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1357.) Vote is 44 ayes, 0 nays, 3 present and not voting, 2 excused and not voting, Mr. President. [LB409]

PRESIDENT FOLEY: LB409E passes with the emergency clause attached. Members, while the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following legislative bills: LB20, LB63, LB138E, LB142E, LB154, LB159E, LB176, LB231, LB234E, LB239, LB241, LB255E, LB255AE, LB264, LB306, LB315, LB383, LB430, LB455, LB464E, LB558, LB645, and LB409E. Proceeding now on the agenda, Select File, 2017 Senator Priority Bill. Mr. Clerk. [LB20 LB63 LB138 LB142 LB154 LB159 LB176 LB231 LB234 LB239 LB241 LB255 LB255A LB264 LB306 LB315 LB383 LB430 LB455 LB464 LB558 LB645 LB409]

CLERK: Mr. President, LB44 is on Select File. E&R amendments have been...I'm sorry. There were no E&Rs. Senator Watermeier had moved to amend his bill with AM1074. That

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

Floor Debate  
May 04, 2017

---

amendment is pending. Senator Chambers has moved to amend that amendment with FA64. [LB44]

PRESIDENT FOLEY: Senator Watermeier, why don't you take a minute or two and refresh us on where we are. [LB44]

SENATOR WATERMEIER: Well, thank you, Mr. Lieutenant Governor, but I had an arrangement with the Speaker already. He'd give me a full opening because it's been almost a week and a half, two weeks. Is that fair game? [LB44]

PRESIDENT FOLEY: I'm sorry. I did not hear you. [LB44]

SENATOR WATERMEIER: I had spoke with the Speaker and he said I could get me a full opening because it's been several weeks. [LB44]

PRESIDENT FOLEY: That's fine, Senator. Please... [LB44]

SENATOR WATERMEIER: I'll make it as quick as I can. [LB44]

PRESIDENT FOLEY: Please proceed. [LB44]

SENATOR WATERMEIER: Thank you, Mr. President. Good evening, colleagues, late afternoon. We are currently debating AM1074 on LB44 which was drafted as a result of the Attorney General Opinion that was requested on LB44. [LB44]

PRESIDENT FOLEY: Excuse me, Senator. (Gavel) Members, please come to order. Senator Watermeier. [LB44]

SENATOR WATERMEIER: The Opinion stated that because the notice and reporting requirements were not severable from the unconstitutional collection obligation that LB44 was unconstitutional. However, the Opinion also noted that the Legislature has options to remedy these constitutional deficiencies. The Opinion stated that if the unconstitutional mandatory collection requirement was removed and the notice and reporting requirements were amended to add the criteria for determining which remote sellers would be subject to these requirements, the bill would then track the statute and regulation of implementation in Colorado's notice and reporting requirements which were held to not violate the Commerce Clause in Brohl II. Further, amending the notice and reporting requirement to provide that a remote seller who voluntarily

Floor Debate  
May 04, 2017

---

agrees to collect and remit sales tax is excused from such requirements would also remedy any constitutional concern as it does not attempt to mandate collection in the contravention of Quill. This was my intent all along. I had repeatedly stated that LB44 allows remote sellers to make a choice, either collect the sales tax or follow the reporting requirements. Therefore, AM1074 clarifies the intent of this legislation. Let me just go over some of the changes in AM1074. Instead of "shall," the amendment states that remote seller "may" voluntarily choose to collect and remit the sales tax. Instead of "refuses," the amendment states that if a remote seller does not voluntarily choose to comply with the collection provision, they must comply with the reporting provision. The definition of remote seller was amended to include the threshold language referring to \$100,000 in gross revenue or 200 separate transactions so these thresholds apply to the collection and the reporting provisions. And fourth thing, it adds a severability clause. I'll remind you that LB44 includes collection provisions from the South Dakota law and the reporting requirements from the Colorado law. The drafters of the South Dakota knew that it would be ruled as unconstitutional, but introduced it as a means to take the issue to the Supreme Court anticipating that the Quill decision may be overturned considering how the Internet scene has advanced in the decision had been rendered. LB44 as amended by AM1074 should avoid the constitutional challenge. As it does not require the remote sellers to collect and remit the sales tax but clearly states they may voluntarily choose to do so. Some might question how the reporting requirements will be enforced. These are good questions and questions that I can't give you a black-and-white answer to. However, the reporting requirements in LB44 are fashioned after the law that has withstood a court challenge. Our entire sales tax structure is one of voluntary compliance. This is key. Everything we do in our tax structure is voluntary. The Department of Revenue and the IRS will audit a certain number of taxpayers, but not a high number. Most people are law abiding and voluntarily pay their taxes when they know they are owed. However, when it comes to sales tax owed on Internet purchases, I believe that many people do not know they even owe the tax. The passage of LB44 will accomplish two things. Through the reporting requirements, more taxpayers will become aware that the use tax is owed and will voluntarily remit the sales tax as a use tax. Some companies will begin to voluntarily collect and remit Nebraska sales tax as seen in other states that have passed similar laws. I will be the first to admit that we don't have 100 percent voluntary compliance with the provisions of LB44, as we do with no tax laws. That will happen if and when Quill is overturned, there will be hopefully a higher percentage. But in the meantime, it will generate some additional funding. Considering the severe budget shortfall our state is facing, why would we not want to get this on the books today? It makes common sense. Furthermore and most importantly and the reason I brought this bill, it addresses the issue of fairness with the brick and mortar companies in our state. Colleagues, stand with me. Stand with me and the small businesses in Nebraska. Every day we are in here talking about economic development. How can we tax our brick and mortar businesses and say, no, I'm sorry, it's a sales tax. It's an increase. Shouldn't have it. LB44 makes complete sense. I've done everything I can with AM1074. With that, I'd end my opening. Thank you, Mr. President. [LB44]

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

Floor Debate  
May 04, 2017

---

PRESIDENT FOLEY: Thank you, Senator Watermeier. Proceeding to debate, Senator Hilgers. [LB44]

SENATOR HILGERS: Thank you, Mr. President. Good... [LB44]

PRESIDENT FOLEY: Senator Hilgers, just one moment, please. Senator Hilgers, I think I ought to let Senator Chambers refresh us on his amendment. [LB44]

SENATOR CHAMBERS: Thank you, Mr. President. Mr. President, members of the Legislature, this bill is not well crafted. I heard Senator Watermeier mention a Colorado case and I would like to ask him a question or two to be clear on what transpired. Senator Watermeier, would you yield to a question? [LB44]

SENATOR WATERMEIER: Yes. [LB44]

SENATOR CHAMBERS: When you said that this Colorado case was upheld, what is the highest court that ruled on the Colorado case? In other words, was it the U.S. Supreme Court? [LB44]

SENATOR WATERMEIER: It was Court of Appeals, I believe. You could probably ask that of Senator Hilgers. He probably knows better than I. [LB44]

SENATOR CHAMBERS: Okay, but here's the point I'm getting to. That is not the last word that can be said on that Colorado case even because it was an appellate court, not the U.S. Supreme Court. Maybe the U.S. Supreme Court would agree and maybe it wouldn't. Now I am opposed to Section 5 in this bill. Actually, I'm opposed to the bill, but not enough to fight it tooth and nail but Section 5 I will...that's all I would ask you, Senator Watermeier. Thank you. And what I'm going to do is offer amendments until Senator Watermeier has to invoke cloture. I do not believe there are 33 votes to do that. I was told that the Governor doesn't like this bill and he said he'd veto it. If I were going to abdicate my duty as member of the Legislature, I would just say well then I'll leave it alone and let the Governor do what is my job. My job when I see legislation that is not crafted in the way I think it should be, I have an obligation as a legislator to do something about it. I have emphasized time and again that there are three branches of government. To me, the Legislature has paramouncy because we pass the laws, we control the purse strings. But some people like to say three coequal branches and I'll let that stand. There's a standard that I think the legislation that we enact to should meet. When we put things in the law that we don't even intend to have any effect, those things should not be put into the law. There is no mechanism to collect various penalties--in one instance \$10, in another \$5--there is no mechanism for collecting that penalty. A penalty without a means to collect it is not really a

Floor Debate  
May 04, 2017

---

penalty. It's a charade. It's a sham and I will not participate in it. They could be aiming this at the devil himself. And I believe the Devil is entitled to benefit of law until the Devil violates the law. That's what Sir Thomas More said in a play by Robert Bolt titled A Man for All Seasons. This bill, as far as I'm concerned, can keep the part about voluntary compliance because you're stating that there are companies doing what you would have them do if such a law were in place, so should such a law come into effect, they don't have to worry about that because they're doing what they need to do anyway. That is very convoluted an approach. Some people thought that because the Governor doesn't like this bill, I wouldn't like this bill. Well, the Governor doesn't like lemon pie but I like lemon pie. I'm not going to stop eating lemon pie because the Governor likes it. Instead of saying I'm with the Governor, say the Governor is with me. The Governor sees this bill the way that I see it. But however it is phrased, if a proposition is articulated and I think that it is accurate, I am going to say that I don't care who articulates it. If the Governor is wise enough to see the problems with this bill--and he may see problems different from the ones I do--but sees sufficient problem with this bill to veto it, I say more power to the Governor. I, on the other hand, as a legislator should prevent legislation from reaching the Governor's desk which does not meet a professional standard of lawmaking. The part of this bill that I'm not concerned about as far as fighting it tooth and nail is that stuff about voluntariness and definitions and so forth. I received a letter from a Nebraska company and as we proceed, I'm going to read it. How much time do I have, Mr. President? [LB44]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: 4:30. [LB44]

SENATOR CHAMBERS: I might can finish the letter by then. It's from Shuttle Grain Truck Probes. That's what it says. Dear Senator Chambers--it's dated May 1--I'm writing you because I see you are active with LB44. Please help me fight the continued growth of government regulation that appears to make the large companies pay their fair share but in reality causes more work and expense for everyone. Our business in Grand Island manufacturers machinery and employs eight full-time and one part-time. Last year, we shipped product to 22 U.S. States and three Canadian provinces; 60 percent of our sales were shipped out of state. Nearly 100 percent of our sales leads come from our Web site. The Internet is a wonderful, low-cost way for us to reach customers globally. It may be hurting some businesses but I know it has allowed many small businesses in small towns to flourish. We need to protect our freedom to do interstate commerce without undue regulation. Less than 2 percent of our sales were from Grand Island. However, we make a significant impact on the economy through our payroll, property taxes, and purchases from local companies. I share the state Legislature's concern about lost sales tax revenue from out-of-state retailers but I'm against LB44. I understand that the bill does not require collecting the tax, only reporting the sales transactions, but look where this is heading. How is the state going to have the resources to track down these transactions and demand they

Floor Debate  
May 04, 2017

---

pay their use tax? They can't do it now so how is this regulatory burden going to change that situation? Soon they will be looking for ways to require collection of the tax. We manually maintain 239 Nebraska sales tax formulas so that we properly collect Nebraska sales taxes. My concern is if laws similar to LB44 or more demanding legislation is implemented in the 21 other states we ship to, I may have to maintain 5,000 tax formulas and file a tremendous amount of paper work. Amazon is voluntarily collecting sales tax on their Nebraska orders. They have the resources to do it. I have researched the software needed to automate our sales tax. It is complex and cost prohibitive. Amazon can afford to do it on their scale. We cannot. The market place has changed and it is getting more difficult for small businesses to survive. Expanding governmental regulations is part of the problem. LB44 is not even a step in the right direction to solving the sales tax issue. Thank you for your time and consideration. Members, I'm reading that letter not necessarily for the validity of all the conclusions but to show that there are businesses in Nebraska who express concern about the direction this bill is going and the difficulties involved in implementing it. I am not a water carrier for business. That has nothing to do with what I'm talking about. [LB44]

SPEAKER SCHEER: One minute. [LB44]

SENATOR CHAMBERS: There is other legislation that has come before us which I attacked because it was either vague, overbroad or simply didn't make sense. This legislation makes no sense unless you see it for what it is, just something to create an onerous requirement on these companies to try to compel them to do what Nebraska wants which is to voluntarily collect and remit these sales taxes. Thank you, Mr. President. [LB44]

SPEAKER SCHEER: Thank you, Senator Chambers. Those waiting in the queue: Senator Hilgers, Chambers, McCollister, and others. Senator Hilgers, you're recognized. [LB44]

SENATOR HILGERS: Thank you, Mr. President. Good evening, colleagues. I rise in opposition again to LB44. And I think with this particular bill there are three questions...at least three questions that I think are implicated in this discussion. One is whether the policy goal of LB44 is a good one. One is whether the avenue, the policy procedure, the way that we get to that goal is a good one. And whether we have...whether this proposed procedure is constitutional. I agree with Senator Watermeier that the goal, the first piece is a worthwhile one to pursue. We ought to have fairness. We ought to ensure that our instate and outstate...our instate retailers are treated similarly and don't have a competitive disadvantage and don't have the showrooming that Senator McCollister has discussed in the past. That's a good goal. I don't agree with the second piece of this, which is the way that we are getting to that goal from a policy perspective and I agree with completely Senator Chambers' thoughtful remarks and criticisms of that particular policy...the way that we're going about to reach that particular goal. But what I want to focus my remarks on

Floor Debate  
May 04, 2017

---

this time at the mike is the third question which is this constitutional question. And sometimes we will get on the mike and say I don't think this is constitutional because the way that I read the constitutional provision says this and I think maybe you could argue it to say that and when you combine the two, I don't think it's constitutional. That's not what I'm doing here this evening. I'm arguing it's unconstitutional because the Supreme Court has said it's unconstitutional. And the Supreme Court in the Quill decision--now it's a little old, but it's good law--said that a state cannot require an out-of-state seller to collect sales tax unless that out-of-state seller had some sort of physical presence inside the state. That's good law. Now there is a Colorado decision, and as Senator Watermeier noted, that's from the Tenth Circuit Court of Appeals and that decision covers a number of states, not including Nebraska. In that decision, the Tenth Circuit said that, well, we agree you can't force collection, but if there is an option of collection or some other...this other procedure in Colorado's law which this bill is mirrored after, this procedure that they put in place, if you do both and the out-of-state seller chooses to provide sales tax, well, that isn't actually forcing them to. It's a choice and, therefore, that's constitutional. Now, I disagree with that conclusion because I think it's coercion, but nevertheless, that's what the Tenth Circuit has said. We are not in the Tenth Circuit. We are in the Eighth Circuit. And every law that has been passed in every state that I've seen that has dealt with this issue around the country has been enjoined, has been stopped, has been rendered unenforceable by the first court to which that bill has been challenged--so a district court, so a federal district court, every single one including Colorado's. So what I think is very likely to happen--nothing is a certainty in court, but what is very likely to happen is if LB44 passes and we should be all very clear about this, it's not a solution for the next year--what will likely happen is the district court will enjoin it. And the district court will say the Quill decision applies and, therefore, this is unconstitutional. Now we can appeal that to the Eighth Circuit Court of Appeals. Now the Eighth Circuit Court of Appeals might agree, might, with the Tenth Circuit or it might not, at which point we'll have some ruling. But if the Eighth Circuit says...even if they agree with the Tenth Circuit and says, okay, Nebraska, you can do this, well, it will get appealed to the Supreme Court. And the Supreme Court might agree with the Eighth Circuit or it might not, but the reality is that entire procedure, even if it ends up with LB44 being constitutional, that's a three- to four- to five-year process. Now what will happen in the meantime is South Dakota has passed a similar law...not to ours. It's actually just the enforcement collection piece with the sole intent of challenging Quill. South Dakota is in the Eighth Circuit. And so what is going to happen is, the Eighth Circuit probably within the next year, will rule on... [LB44]

SPEAKER SCHEER: One minute. [LB44]

SENATOR HILGERS: ...South Dakota's--thank you, Mr. President--will rule on South Dakota's law. Now the Eighth Circuit may say something entirely different from the Tenth Circuit. The Eighth Circuit might say it's not constitutional, but if you did x, y, and z, it would be constitutional. And that x, y, and z might be entirely different from what Colorado did. We don't

Floor Debate  
May 04, 2017

---

know. Now we'll have guidance I think from the Eighth Circuit in the next year or so and we can act on that guidance. The reason why we are including this onerous procedure that Senator Chambers has I think so ably criticized is not because it's good policy. The reason we're doing it is because it gives us the best chance, we think, of avoiding the constitutional problem, because that's the procedure that was blessed by the Tenth Circuit. It's not because it's good policy and it's not because it necessarily will...that will be blessed by the Eighth Circuit. So we could do all this work, have all these procedures in place, and the Eighth Circuit in the next year could say, yeah, you know what, this is not...doing x, y, and z is not going to render it constitutional; instead you should do a, b, and c. [LB44]

SPEAKER SCHEER: Time, Senator. [LB44]

SENATOR HILGERS: Thank you, Mr. President. [LB44]

SPEAKER SCHEER: Thank you, Senator Hilgers. Senator Chambers, you're recognized. [LB44]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, one thing the young cub touched on and that is voluntariness. Coercion in and of itself does away with the notion of voluntariness. When you voluntarily do something, it's without coercion, pressure, outside force of any kind. You look at the situation and you decide of your free will and own volition to do it. Senator Watermeier acknowledged this onerous process is to be a hammer. I think any court that looked at the language in this so-called hammer would see that there is no intent to comply with any law or any rational regulation. It is simply designed to heap one problem, one duty, one requirement, on top of another until you coerce somebody's will to do what you want them to do. You include a penalty which has no means of collection. I think what the Legislature ought to do is what I did. Read through Section 5 and let's say that that was being imposed on Nebraska companies. One of the first things you might say, well, if the penalty is \$5, how are they going to get it? Well, their tax department, their taxing agency is going to track down every one of these individual transactions that occur. Well, how is their department going to do that? Well, actually, they can't do it. Then how are they going to impose a fine? Well, what they're going to do is ask the one we want to punish to provide us with the information on which we will base the punishment and it will be stated that you must think that they are crazy. They are going to give you the stick to beat them with? What I ought to be doing is moving to kill this whole bill. But all that I'm doing is dealing with the worst part of it, the part that I find extremely offensive. I'm being asked to take, on its face, something that an ignorant group of legislators in Colorado did. I am supposed to substitute their judgment, if you want to call it that, for my meticulous analysis, my common sense, my understanding of the law and the constitution, and go for it because some court at the appellate level said, well okay, you can do this because what

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

Floor Debate  
May 04, 2017

---

you are trying to do is get voluntary compliance. If you analogize to a confession, a confession cannot stand if it was coerced, if it was obtained through trickery, anything that prevented the one giving the confession from dealing with what he or she is to confess to. This is unreasonable. And what I intend to do in order to take us to cloture is to read word for word what is in Section 5 and do like the preachers used to do--they probably still do but I haven't gone to that church in so long I don't know if they still do it--but they will take for a sermon what they call a text. That text comprises one or more versus. [LB44]

SPEAKER SCHEER: One minute. [LB44]

SENATOR CHAMBERS: And somebody will read the verse, then the preacher will explain the verse and then go off in all directions giving I guess the sermon. I'm going to follow that methodology today and my presentation is going to be as onerous on you as those who have to sit here and listen as this process is designed to be on these companies. If I were the house counsel for any company I would say that's trash. Ball it up and throw it in a wastebasket where it belongs. They cannot touch you. They cannot make you collect any taxes. They cannot make you do anything without burdening interstate commerce. And if I'm wrong, I'd like Senator Watermeier or others who support this bill to point out my error. And if I agree with them, they will have improved my education and obtain one who will now support their bill. Thank you, Mr. President. [LB44]

SPEAKER SCHEER: Thank you, Senator Chambers. Senator McCollister, you're recognized. [LB44]

SENATOR MCCOLLISTER: Thank you, Mr. Speaker. Members of the body, both Senator Watermeier and I had bills that relate to Internet sales--his bill LB44 and mine LB564. As you may know, it will bring in \$30 million to \$40 million in recovered revenue, not new tax revenue in that the law already requires taxpayers to pay the money they owe for on-line sales. Will Senator Hilgers answer a few questions? Senator, will you yield? [LB44 LB564]

SPEAKER SCHEER: Senator Hilgers, will you please yield? [LB44]

SENATOR MCCOLLISTER: Sorry. Senator, you may recall that you and I had a discussion on General File with regard to the Colorado situation? [LB44]

SENATOR HILGERS: Yes. [LB44]

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

Floor Debate  
May 04, 2017

---

SENATOR McCOLLISTER: And we discussed the Tenth Circuit and all of that. And I think the final conclusion was that Colorado is now collecting sales tax on on-line sales, is that correct? [LB44]

SENATOR HILGERS: I believe they are now, correct. [LB44]

SENATOR McCOLLISTER: How did they do that? Did they deal with the voluntary aspect that Senator Chambers mentioned? [LB44]

SENATOR HILGERS: Their system I think is what LB44 is modeled, so it's got the two components. It's got...it is the collection and if you don't collect, then you have to do all these other record-keeping aspects. [LB44]

SENATOR McCOLLISTER: Well, let's assume Nebraska went ahead and passed LB44. What is the worst possible outcome it could have if in fact we were challenged. [LB44]

SENATOR HILGERS: Well, I think what would happen is it would be enjoined. I think the worst possible outcome is we would spend a lot of work on something that would be ultimately rendered unconstitutional. [LB44]

SENATOR McCOLLISTER: So in effect, all we'd really have is legal fees and not much else. But the upside I think you would agree is \$30 million to \$40 million per year of new money into the state coffers, correct? [LB44]

SENATOR HILGERS: If it was rendered constitutional, we'd be able to collect additional dollars. I do think there's an opportunity cost from having it struck down. But the upside would be additional collections, absolutely. [LB44]

SENATOR McCOLLISTER: Amazon, at least for their sales are currently voluntarily paying state sales tax due, is that correct? [LB44]

SENATOR HILGERS: That's my understanding. [LB44]

SENATOR McCOLLISTER: So I would contend that's the trend. Thank you, Senator Hilgers. This is good legislation, colleagues. Main street retailers are asking for this kind of fairness. With regard to the issues that Senator Chambers raised, I would offer the following. Advances in technology have greatly enhanced the ability of remote sellers to collect sales taxes in states in

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

Floor Debate  
May 04, 2017

---

which they do not operate. Secondly, GIS technology has improved the ability of Internet retailers to collect sales taxes by linking local option tax rates to their applicable street addresses and databases made available to remote sellers free of charge. Lastly, the streamlined sales tax and use tax agreements have simplified and modernized sales tax collections by remote sellers by minimizing the differences in sales tax codes across the member states. So perhaps it may not be as difficult to collect sales tax in other states as...from other states as we may think. Finally, e-commerce has made the retail sector more competitive as consumers can instantaneously find products displayed in retail stores for on-line sales often offered with free shipping and no tax assessment. That's the issue we're dealing with here. The inability of state and Nebraska municipalities to effectively collect use tax... [LB44]

SPEAKER SCHEER: One minute. [LB44]

SENATOR McCOLLISTER: ...on out-of-state Internet purchases made by residents puts local retailers at a competitive price that's a disadvantage to retailers. So finally, colleagues, I think it's time to pass LB44. There is a big upside. As we heard this afternoon, we need more tax revenue. And if we want to enact some kind of property tax relief, here is a good place to generate the revenue and generate perhaps \$30 million to \$40 million. Thank you, Mr. Speaker. [LB44]

SPEAKER SCHEER: Thank you, Senator McCollister. Mr. Clerk, for announcements. [LB44]

CLERK: Mr. President, new A bill. (Read LB578A by title for the first time.) Bills read on Final Reading were presented to the Governor at 4:58 (re LB20, LB63, LB138, LB142, LB154, LB159, LB176, LB231, LB234, LB239, LB241, LB255, LB255A, LB264, LB306, LB315, LB383, LB430, LB455, LB464, LB558, LB645, and LB409). (Legislative Journal page 1358.) [LB578A LB20 LB63 LB138 LB142 LB154 LB159 LB176 LB231 LB234 LB239 LB241 LB255 LB255A LB264 LB306 LB315 LB383 LB430 LB455 LB464 LB558 LB645 LB409]

Mr. President, Senator Baker would move to recess the body until 6:15.

SPEAKER SCHEER: You've heard the motion. All those in favor please say aye. All those opposed say nay. Ayes still have it.

RECESS

SPEAKER SCHEER PRESIDING

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

Floor Debate  
May 04, 2017

---

SPEAKER SCHEER: Good evening, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The evening session is about to convene. Senators, please record your presence. Roll call. Record, Mr. Clerk.

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

SPEAKER SCHEER: Thank you, Mr. Clerk. We'll return to...oh, we have a few things to read in. Mr. Clerk.

CLERK: I do. Thank you, Mr. President. Enrollment and Review reports LB149, LB171, LB327, LB328, LB329, LB330, LB331 and LB332 as correctly engrossed. (Legislative Journal pages 1359-1360.) [LB149 LB171 LB327 LB328 LB329 LB330 LB331 LB332]

SPEAKER SCHEER: Thank you, Mr. Clerk. Returning to floor debate on LB44. In the queue waiting to speak: Senators Groene, Kuehn, Hilgers, and others. Senator Groene, you're recognized. [LB44]

SENATOR GROENE: Thank you, Mr. President. I stand in support of AM1074, against FA64, and LB44 I am in support of. Earlier we've talked about income taxes and businesses and small businesses. This, besides property tax, is the only taxing issue I...was brought up to me by the small businesses on main street in North Platte, Nebraska. They're getting beat up by the Internet. They do the sales work. They do the demos. They let the customer touch and feel the product. They basically do the close and the customer disappears and orders it on the Internet. I was firmly against any sales tax increases most of my life until I went door to door running for election and these businessmen told me of these situations. If you want to talk to me about small business, which bothers them, I'm talking retail business, the bricks and mortar guys, they want this. And then I changed my view also on what sales tax is. It is not a tax on a business. Keep saying we can't tax these businesses. It is a tax on the customer--the customer who drives the streets, uses the sidewalks, uses the public safety just like you and I do, lives in the same community, but doesn't support the community by paying the local sales taxes or the state sales taxes. It's not a tax on business. It's a tax on individuals, sales tax is. So I stand in support of this. Is it unconstitutional? Listened to Senator Hilgers, different court cases, the Colorado one. South Dakota is basically suing themselves so they get a ruling. What was unconstitutional in this country? We can go through the list over and over again through time. And then with the passage of time, what became constitutional with different courts and different cultural changes in our society. Why would the Supreme Court change its view on what Internet...what interstate commerce was? Because times have changed. It's no longer a truck driving across...down the highway and crossing the state line and buying something and turning around and going back. This is the Internet. It knows no state lines. But the individuals live in a certain area and they pay

Floor Debate  
May 04, 2017

---

the tax. How does the Supreme Court change rulings? Because they get pressure from society. And the more states that pass laws like this, will send a message to the Supreme Court, it's time to change. It's time to take a different look at Internet sales taxes and its relationship to local purchases. That's why I support this bill. Let's put it in place. Let's send another message to the Supreme Court that it's time to take a different look how Internet sales tie into interstate commerce. That's what this bill does. And that's what it will do. It's in place. We can tweak it. We can change it. I look at it as a message to the United States Supreme Court it's time to change. Thank you, Mr. President, and I appreciate Senator Watermeier bringing this bill. It needed to be discussed. Let's put it in place. Let's send a message on the national level that it's time to make everybody take part in paying the taxes that supports our public safety,... [LB44]

SPEAKER SCHEER: One minute. [LB44]

SENATOR GROENE: ...fixes our potholes. It's the individual who pays that taxes and they live in my town. It's not the business in California that ships it to them. Thank you. That's all I got to say. [LB44]

SPEAKER SCHEER: Thank you, Senator Groene. (Visitors introduced.) Senator Kuehn, you're recognized. [LB44]

SENATOR KUEHN: Thank you, Mr. President, good evening. As we return back from our suppertime, the longer the debate goes on, on this bill, the more confused I actually become and the more steadfast I become in my opposition. Initially my concerns were the constitutional issue and some pragmatic issues with regard to what Colorado's experience with their version of this part of the bill has been and that is five years of litigation, no collection of taxes. And now that they're actually trying to figure out how to implement that reporting process, they have no idea how to do it. Because if you have a business, for example, in Missouri that is not reporting sales tax that's supposed to somehow voluntarily submit issues and not a fine, why would you ever...how do we even know that business is there, that they have transactions or they can be fined? The pragmatic application of that piece of it becomes very difficult. And the state of Colorado is dealing with that pragmatic implication right now. And so I think we have to be very careful about what we're actually trying to achieve. I think Senator Groene's recent discussion that preceded me highlighted exactly why I continue to become more confused. So is this bill about protecting main street businesses that somehow or another were suddenly going to collect the tax and that 5.5 percent, 7 percent is going to turn the tide and we're going to keep main street businesses open? Or is it in the second half of Senator Groene's position, it's about sending a message? So sending a message about something we know that's not going to work and that we know is unconstitutional, that we know we're not going to gain dollars from is a completely different issue in my mind than saying, oh, look, this is going to be the panacea for all of our

Floor Debate  
May 04, 2017

---

brick and mortar store problems. I also have a little bit of a problem with the line of thinking that says the collection of sales tax is the fundamental difference between the success and failure of main street brick and mortar businesses, especially made by cities and municipalities that are charging their own sales tax on top of the state base rate. So if sales tax is such a deterrent to sales and growth, then increasing sales tax is deterring business within our cities and communities. So you would be driving business away from a Lincoln or an Omaha that has a higher city sales tax than a Crete or a Seward or a Minden. So it's an interesting kind of double-handed logical argument that's being made that I really haven't heard compelling evidence for it. So with all of that confusion, I go back to what do we gain by passing this piece of legislation? Well, in the short-term, we don't gain any revenue. I think Senator Hilgers has said it multiple times and I agree with him, we will be enjoined in a lawsuit. And until the Supreme Court rules on the South Dakota case or another case and Quill is overturned, we're not going to have mandatory collection of those sales tax. We're somehow or another going to have to figure out a system by which we have voluntary reporting of purchases, which I think is problematic on a lot of levels where we're now asking companies to turn over purchase histories, which if you're an Internet privacy person is a whole other set of concerns, to the state Department of Revenue, or to individual consumers and somehow then you getting a document in the mail that says, official, look at this, just like an envelope I received yesterday to my home that was for some credit card offer. That somehow or another that's going to compel you to remit the taxes on your form and if not, you're going to pay a fine or a fee. I don't understand pragmatically how that's going to work. So at the end of the day, I ask why? Why not... [LB44]

SPEAKER SCHEER: One minute. [LB44]

SENATOR KUEHN: Thank you, Mr. President. Why not let the Supreme Court rule on the Quill decision? We know one way or another with absolute clarity what the law of the land will be and we proceed forward accordingly. We're passing legislation that I understand the political motivation. My chambers have talked to me as well. Business owners have expressed to me that the clothing store on the corner is really going to turn around because people are no longer going to come in and window shop and then turn around and buy it on Amazon. I wholeheartedly disagree with that concept. I don't believe that that is going to have the effect that it's going to. My own personal consumer habits and consumer experience doesn't bear out that that's why I have my particular consumer habits. So I think we have to ask what are we actually trying to achieve here and be clear and consistent with that before we pass this piece of legislation that has, in my mind, far more cons than it does pros. Thank you, Mr. President. [LB44]

SPEAKER SCHEER: Thank you, Senator Kuehn. Senator Hilgers, you're recognized. [LB44]

Floor Debate  
May 04, 2017

---

SENATOR HILGERS: Thank you, Mr. President. Good evening again, colleagues. I just wanted to finish the remarks I had before our break, and I think it's really important to be clear. LB44 does not simply say that we can collect taxes from out-of-state retailers. If that is all that it did, it was a nice, clean, simple solution, it would be unequivocally unconstitutional under Quill. What it does is it says it provides a choice to out-of-state retailers, either they can pay the tax or they can go through this messy, complicated, very complex process that needs to go through its own regulatory process with the Department of Revenue that has all sorts of uncertainties and pragmatic complexities. We did not choose that type of complex process because we thought it was the best policy decision for Nebraska. Let's be very clear. The reason we're choosing that complex, uncertain, untested process is because that we think that's our best route, a very highly uncertain, but our best route at avoiding the constitutional issue because that's the process that was used in Colorado and blessed in the Tenth Circuit. So we need to be very clear about what LB44 purports to do. And we should be equally clear about what will happen. If we do something, it will, I think in all likelihood, and there is no certainty with the judicial cases and court cases--I'd be the first to concede that--but I think in all likelihood given everything we know about every other decision, every other state that's made this decision a district court here in Nebraska will enjoin it. So if you are sitting out there and you're watching this debate and you're thinking, we think that LB44 will result in tax collections tomorrow to help our budget deficit, that is...I think it's very unlikely that that will be the case, first and foremost. This will be tied up in litigation for a number years, as I laid out the previous time at the mike. If we wait, what will happen? Well, if we wait, we know for certain that South Dakota has basically shot an arrow at Quill, and that is working its way through the system. Now as a good thing for us here in Nebraska, South Dakota is in the same federal appellate court system that we're in, the Eighth Circuit. What that means is, is we will get another data point. Sometime in the next year or so, the Eighth Circuit will rule on the South Dakota decision. Now Eighth Circuit may say, you know what, we totally agree with the Tenth Circuit; and if you do something just like Colorado did, well then that's...we're going to find that's constitutional. If they do that, well, then the landscape looks a lot different for us. I don't think that they will. They could say something entirely different. They could say, you know what? If you do the Colorado thing, that makes it even more unconstitutional. What you should do is x, y, and z; and if you did x, y, and z, you'd be okay. In other words, colleagues, in another year or so, we will have another data point that will give us a better sense of the legal landscape so that we can make a better policy decision because my concern with LB44 is that our route to avoid the constitutional problem we are choosing a policy prescription that really isn't all that good. It really isn't all that good. Senator Kuehn and Senator Chambers have both criticized--and I agree with their criticism--this process...and Senator Kuehn mentioned, Colorado has had difficulty implementing this process, even after the Tenth Circuit Opinion. So in my view, patience here is the better virtue. And I think voting down, voting red on LB44, waiting and bringing it back after we have a better clarity of the legal landscape is the better choice. With that, Mr. President, I yield my time to Senator Chambers. [LB44]

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

Floor Debate  
May 04, 2017

---

SPEAKER SCHEER: Senator Chambers, 1:35. [LB44]

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature. It's just about enough time for me to notify Senator McCollister that I'm going to have some questions for him, so he should get ready. And so he can be putting on his thinking cap, if he has a copy of the amendment which is to replace the bill, on page 2 at the bottom, in line 30, it says--this is for those who do not voluntarily pay: Notify Nebraska purchasers that the sales or use tax is due on this purchase and so forth, and if the failure...if the seller fails to give that notice, then there is a penalty of \$5 for each failure. That's what I'm going to question you about and I'm going to question you closely, searchingly, and your intelligence is going to say this whole thing ought to be thrown out the window. And that's all I'll say right now, Mr. President. Thank you. [LB44]

SPEAKER SCHEER: Thank you, Senator Hilgers and Senator Chambers. Senator Watermeier, you're recognized. [LB44]

SENATOR WATERMEIER: Thank you, Mr. President. And good evening, Nebraska, at 6:30 in the evening. Appreciate the dialogue here. But I'm going to make and take a big chance here. Senator Hilgers is speculating in a lot of ways. I will tell you what the truth of the matter is right here, right now. Senator Kuehn is speculating in a lot of ways what will happen, what might not happen. The truth of the matter is the facts we have in front of us. Senator Kuehn asked for an AG's Opinion. I modeled an amendment after the AG's Opinion. I'd like you to all look at this pretty little colored sheet I handed out, it's colored on two different sides and let me first say that I've asked everybody to not make any colored copies. This was made without state expense, at my own expense. It talks about in the AG's Opinion, this is unconstitutional: applying each of the severability clause, we conclude that LB44 in its present form is unconstitutional in its entirety. Going on to say: that is not to say, however, that the bill could not be amended to satisfy the constitutional requirements. If the constitutional mandatory collection requirement was removed, then the green part, if you look at the sheet I've got here, the green part on the left side of the sheet matches up with the green part of the way I wrote the amendment. This is exactly what the AG said would make the bill constitutional. I can't make it any cleaner than that. This is the best effort we can make. And it's just time to go forward with this bill. I can't defend every single thing that Senator Schumacher, Senator Chambers, Senator Kuehn, or Senator Hilgers is going to talk about: reporting mechanisms, policing it, getting the fines. I said it clearly in my opening. It's tough to give you a black and white answer on that. Since 1967, Nebraska has had state sales tax statutes made. Since then, they've been doing these very things. The department is charged with these things we're talking about. I wouldn't even begin to try to defend how they do it or why they do it. But I know they have the responsibility to follow what we make as statute in here, if you want to call it statute or you want to call it law. It's lawful until our state constitution, our law, excuse me, our Supreme Court says it's not. I think it's time in the next year and a half, we'll benefit from this bill. I don't accept the fact that this is just a feel good bill for our small

Floor Debate  
May 04, 2017

---

businesses. It's more than that. It is a fairness thing. It's how we should operate. These businesses should be willing to do it. Now Amazon came in and voluntarily did it. The Governor added \$11 million to the deficit bill. Now we can't confirm that's actually going to come in because those numbers are going to be very difficult to confirm. That's how muddy tax law is. It's tough to do it. And even in the Department of Revenue, they know how many sales tax dollars are coming in. Once it's not collected as a sales tax, it's called a user tax. It's not black and white, and I wouldn't even try to defend how it works. But members, we have a chance to do what's right here. It's clear the AG has given us a very easy direction to do. AM1074 takes care of the AG's concerns. Senator Hilgers also said that Colorado--and I need to correct his pronunciation--I've never heard of Colo-RAD-o. My members out in western Nebraska say Colarada (phonetically). In Colorado, the law is the reason we chose...he says the reason we chose to do it is messy and it's complicated. This has been proven constitutional in Colorado through the Supreme...not the Supreme Court, but the appellate court. The Supreme Court dismissed it. They wouldn't even look at it. That says an awful lot to me. Let's let this bill go through in place. It will be a positive generator on revenue. [LB44]

SPEAKER SCHEER: One minute. [LB44]

SENATOR WATERMEIER: Thank you, Mr. President. I realize that was one minute. [LB44]

SPEAKER SCHEER: Thank you, Senator Watermeier. Senator Briese, you're recognized. [LB44]

SENATOR BRIESE: Thank you, Mr. President. Good evening, colleagues. I rise in support of LB44 and I thank Senator Watermeier for bringing this. Many on-line sellers of items to Nebraskans do not collect sales tax, thereby imposing a legal obligation on Nebraska purchasers to pay use tax on those purchases. Unfortunately, many Nebraskans are unaware of this requirement. The use tax goes unpaid. LB44 is a commonsense effort to enforce our sales and use tax laws by collecting taxes that are legally owed. And it's a commonsense effort to help level the playing field for our main street businesses across Nebraska. Eventually, I'd like to see the revenue raised here go towards tax relief for Nebraskans, but that's a discussion for another day. Constitutional objections were raised on General File. I think constitutional objections continue to be raised tonight. I've read the Attorney General's Opinion, the Nebraska Attorney General's Opinion that partially confirms those objections. However, that Opinion outlined the path forward on this bill to overcome the problems. And I believe AM1074 sufficiently incorporates those changes recommended by the Attorney General to allow this bill, if enacted into statute, to pass constitutional muster. How does it meet the suggestions of the Attorney General? By making collection requirements voluntarily. It was suggested to do it that way and that's the way it's written. But in addition to making the collection voluntary, a seller, if they

Floor Debate  
May 04, 2017

---

choose not to collect these taxes, has the option to report. And I think the combination of these two options gets this language over the hurdle. I note that the language regarding notice requirements is very similar to the language that the Colorado Tenth Circuit Court of Appeals upheld in the Colorado case. And in that case, the Tenth Circuit Court of Appeals found that the Colorado statute, quote, does not discriminate against nor does it unduly burden interstate commerce, unquote. They also found that Quill applies narrowly to sales and use tax collections and not the reporting requirements. So I don't think Quill has a whole lot of application on what we're talking about tonight. And as to Senator Chambers' comments regarding the penalty and enforcement of the penalty, I note that that penalty and enforcement is almost identical to the language found in the Colorado statute. And I realize Colorado statute is not dispositive here. But they also impose the \$5 and \$10 penalties similar to Nebraskans. LB44 is good policy. It's a win-win-win. It helps the Department of Revenue enforce our tax statutes. It helps Nebraska consumers keep track of their purchases for which they owe use tax. And it helps our main street retailers by leveling the playing field. I'd ask you to oppose FA64 and support AM1074. Thank you. [LB44]

SPEAKER SCHEER: Thank you, Senator Briese. Senator Chambers, you're recognized. [LB44]

SENATOR CHAMBERS: Mr. President, members of the Legislature, Senator Briese used the term "common sense." Usually when that term is used, that about which it is used is nonsense. I'm going to show you where Senator Briese is reading something that somebody gave to him which he has not analyzed. There is a poem I quoted that Rudyard Kipling wrote and the colonel's son was chasing this guy who had stolen his father's mare. And the colonel's son shot at him. It said, "He has fired once, he has fired twice, but the whistling ball went wide. / 'Ye shoot like a soldier,' Kamal said. 'Show now if ye can ride.'" You read as well, Senator Briese, as anybody that I heard read. Now let us see if you can reason. Senator Briese, how will the state tax collector, the enforcer, going to know...yes, I'd like to ask Senator Briese these questions if he will yield? [LB44]

SPEAKER SCHEER: Senator Briese, would you please yield? [LB44]

SENATOR BRIESE: It's been kind of a pattern today so let's go ahead. [LB44]

SENATOR CHAMBERS: Senator Briese, if the notice is not given to a purchaser, how does the state of Nebraska know that purchaser A did not receive such a notice? [LB44]

SENATOR BRIESE: That's a good question, Senator. And that's something one is going to have to examine. Perhaps we should ask Colorado how they do it. [LB44]

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

Floor Debate  
May 04, 2017

---

SENATOR CHAMBERS: (Laugh) No. If somebody is not going to give the information with reference to whether or not... [LB44]

SENATOR BRIESE: I would submit... [LB44]

SENATOR CHAMBERS: ...a purchase had been made, why do you think that person is going to pay a \$10 fine when you've got no way to collect it? [LB44]

SENATOR BRIESE: I would submit that those penalties are put in place to encourage enforcement. They ignore enforcement at their own risk, realizing there is a potential for penalty. [LB44]

SENATOR CHAMBERS: Okay. [LB44]

SENATOR BRIESE: And so it serves a purpose there. How we're going to enforce it, I'm not sure of that, Senator. [LB44]

SENATOR CHAMBERS: So here is what a company risks. I'm going to disobey that and you say, by God, you better do it or you're going to have to pay \$10. And this company is going to start shaking like a leaf on a tree and say, I better do what they want me to do or I'd have to pay \$10. Suppose they don't pay the \$10. Then what are you going to do? [LB44]

SENATOR BRIESE: It's probably not clear from the language of the statute. [LB44]

SENATOR CHAMBERS: I'm asking what would you do? [LB44]

SENATOR BRIESE: I hadn't thought that through. [LB44]

SENATOR CHAMBERS: See? You read well, but you're not reasoning. And I understand that. Thank you. Members of the Legislature, what I'm trying to show is that people who try to defend this cannot defend it. It's nonsensical. Suppose the IRS said, if you don't pay your taxes, we're going to fine you a nickel. And you say, I'm not going to pay the nickel. Then the IRS say, well, you ought to pay the nickel. And you say, I'm not going to do it. What are you going to do about it? IRS say, well, it's not worth the cost to recover the nickel that the nickel would provide...well, we're not going to do anything. This is one of the dumbest things that I've ever heard, and Colorado did it because they've got dumb legislators in their legislature. Fortunately, Nebraska is not afflicted in that manner. I'll speak for myself. There is at least one senator in this Legislature

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

Floor Debate  
May 04, 2017

---

who will stop this Legislature from looking as stupid as the legislature in Colorado. A fine is going to be levied that cannot be collected. It would cost more if you tried to collect it than the fine itself. So you've got a politician because the one who runs the tax commission or this department is a political appointee. He tells the Governor, Governor, I collected \$10 from this company. [LB44]

SPEAKER SCHEER: One minute. [LB44]

SENATOR CHAMBERS: And the Governor says, wonderful. Well, how much did it cost you to collect that \$10? You say, well, let me see. I had the employee do this many hours and this...cost us \$3,780. And the Governor said, you spent \$3,780 to collect \$10? Does that make sense to you, Senator Briese? Yes, that's a question for Senator Briese. [LB44]

SPEAKER SCHEER: Senator Briese, would you yield again? [LB44]

SENATOR BRIESE: Well, like I said earlier, I think those penalties are in place to encourage compliance. Difficulties in enforcement should not be of that large a concern I don't believe in this situation. [LB44]

SENATOR CHAMBERS: Thank you. That's all I'll ask you. And because my time is probably up, and I'm going to have plenty of opportunities, I'll stop at this point. Thank you, Mr. President. [LB44]

SPEAKER SCHEER: Thank you, Senator Chambers and Senator Briese. Senator Blood, you're recognized. [LB44]

SENATOR BLOOD: Thank you, Mr. President. Fellow Senators, friends all, I stand against Senator Chambers' floor amendment and in favor of Senator Watermeier's amendment and LB44. I'm going to ask for a moment of silence because I'm going to read off a list of some businesses that have died because of Internet competition or in the process of dying. These are the ones that I was able to verify while sitting here with facts: Barnes&Noble; Finish Line; Macy's; American Eagle; Sports Authority; Aeropostale; JCPenney, in the last two years, 40 stores; Sears, more than 200 locations in two years; Gordmans, that's a local one, guys; Office Depot; The Children's Place. I appreciate how audacious Senator Watermeier is in his fight to move this forward. He listened to what the concerns were and he brought forward an amendment. I disagree with Senator Chambers when he says this is nonsensical and I'm going to tell you why, because this morning we were preached to about how important it is that when we get here, we are the voice of the people. And the voice of the people in my district said, they

Floor Debate  
May 04, 2017

---

wanted us to address the tax on their retirement and military retirement. And what was I going to do about it? And I told them, you know what? Nothing at first because our budget has major issues and one of those issues is we need to generate more income. And every single person that talked to me about it, I discussed Internet sales tax and guess what? Not a single person, not one, told me it was a bad idea. They all supported it. And so then I went into my phone banking. I'm sure many of you do the same thing. We call constituents in my district every week. We have made over 13,000, excuse me, 11,648 phone calls since January. We have 13,929 people in our database. Out of those people, we have had the ability to speak with over 2,000 and each and every one of them have told us they support LB44. That's pretty powerful. So when you stand here and you talk about the budget and how we have to cut property tax and how we have to be the voice of the people, the voice of the people say that they want LB44. And I'm sorry that it may seem nonsensical, but Colorado, Senator Chambers, is not the only state that is doing this. And had I had three more minutes, I would have come up with a list of the states that are doing it besides Colorado, but I did not. This is progressive. This is keeping up with technology. And quite frankly, it breaks my heart every time I see one of my favorite chains go under because of this competition. And when that goes under, that means fewer jobs; fewer people with healthcare; fewer people that are going to have to rely on Section 8 housing and Medicaid. It's so sad, Senator Chambers. It breaks my heart. And it should break yours too. And if you want to pursue your floor amendment with your beautiful brain and wonderful intelligence, I just find it hard to believe that you can't help Senator Watermeier get it right so we can move it forward. It was worth a try (laugh). But with that said, I do rise in support of this. My district wants this. Senator Briese's district wants this. Senator Groene's district wants this because they want us to generate more income... [LB44]

SPEAKER SCHEER: One minute. [LB44]

SENATOR BLOOD: ...so we can truly address the tax issue. But it is silly to keep making cuts after cuts after cuts. That is not good budgeting. That's just ridiculous. Let's do this right. Let's do good business. Let's find income and let's start with LB44 and then let's go after the Airbnbs because that's already in state statute, too. Thank you. [LB44]

SPEAKER SCHEER: Thank you, Senator Blood. Senator McCollister, you're recognized. [LB44]

SENATOR MCCOLLISTER: Thank you, Mr. Speaker. Good evening, colleagues. I am so disappointed that Senator Chambers didn't ask me about the draft of that bill because I'm prepared to answer, and I can see that on page 2 it talked about the voluntary aspect of this instance. And I can actually see the point that he's making, that we couldn't very well require somebody to send out a postcard when, in fact, before in the document it calls it voluntary. So I'll

Floor Debate  
May 04, 2017

---

readily admit that. I do have to get on the mike and answer a couple things. We talk about leveling the playing field for retailers. And that is, in fact, a problem. My wife went into the toy store business in 1975. And, of course, there was really no active Internet then to compete with her store. But long about 1990, 1995, the Internet started to be a big factor. And people would, in fact, come into her store, look at the merchandise, feel it, touch it, play with it a little bit, watch their kids play with those toys, in fact, and then they'd go out of the store and buy those items on the Internet. So it does happen. Showrooming does occur. In fact, I've done it myself. And I would venture to say that many people in this room have done the very same thing. The legal issues--Senator Chambers brings up the legal issues and so does Senator Hilgers. It's way beyond my pay grade at \$12,000 a year, but I would venture to say that different legislatures, including Colorado, have forged ahead, legal issues aside, and they're now collecting sales tax and we aren't. We aren't. And at \$30,000 or \$40,000 a year, that's money we could be using for something. How about property tax relief? Replenishing the property tax relief fund? Those are places we could go with that money. And it's just foolhardy for us to miss the opportunity to collect that money. You know, I do have a philosophical argument to support this bill. It's just fairness and it's money that we ought to be collecting in the state of Nebraska and is not being collected, which is required for people to pay. So it's time that we pass this bill, legal issues aside, and start collecting money that we could use in some profitable way. Thank you, Mr. President. [LB44]

SPEAKER SCHEER: Thank you, Senator McCollister. Senator Hilgers, and this is your third time at the mike. [LB44]

SENATOR HILGERS: Thank you, Mr. President. I wanted to respond to a couple of points. One is Senator Watermeier made the point that I'm speculating, others are speculating. There is...and I conceded this the last time I was at the mike, there is nothing certain in life. There is certainly nothing certain in the courtroom. But what I can tell you when I say that, there is a very high likelihood this case will be enjoined by a district court. I don't base that just purely on speculation. It's reasoned extrapolation based on historical events. In other words, what I know is every single state that has passed a law requiring out-of-state retailers to collect sales tax has had that law enjoined--every single one, including Colorado. So while it may be that Nebraska bucks that trend and we avoid the lawsuit; or if we are sued, we avoid the constitutional issue and we can collect it right away, I think history suggests that that is very likely to not be the case. So I think that's point one. Point two is the argument that while the Tenth Circuit has said we will...the Tenth Circuit has said that Colorado's law is constitutional, therefore, we will say that there is a good chance that it will be constitutional here as well. And I think it's very important to keep in mind that circuit splits happen all the time. And what is a circuit split? Well, I mentioned before that the federal court system at the very top is the United States Supreme Court. And the next layer below are the federal courts of appeals. There are 11 numbered federal courts of appeals, as well as the D.C. Circuit in addition to the federal circuit, which hears patent appeals.

Floor Debate  
May 04, 2017

---

Those 11 numbered circuits all cover a certain regional area. Now those circuit courts of appeals cannot overturn anything the Supreme Court says. So if the Supreme Court says, don't do this, the circuit court of appeals cannot contravene that. However, if the Supreme Court has not spoken on a particular issue, then those courts, if they do speak on that issue, that becomes the law of the land for the states that those courts of appeals cover. That's why we're not in the Tenth Circuit, we're in the Eighth Circuit I've mentioned several times before. A circuit split is where circuits disagree--Tenth Circuit says one thing; the Fourth, Fifth, and Sixth say another; and the Seventh says something completely different; and the First has never addressed it. Those happen all the time. So the notion that the Tenth Circuit would...that the Eighth Circuit would be very likely to agree that this is constitutional because the Tenth Circuit did is not based on any sort of real evidence. It's just sort of hope that the Eighth Circuit will agree with the Tenth Circuit. And I think Senator Chambers--and I will tell you if there is a lawsuit, again, if I was a betting man, Senator Chambers, I would bet that there would be--whoever the plaintiff is in that lawsuit ought to come to the record, the transcript from this particular proceeding and they ought to look a couple pages back when Senator Chambers started his remarks because he has laid out, I think, the key reason why this will be ultimately found to be unconstitutional, because the voluntary reporting requirement is illusory. It's not really a requirement at all. Or to the extent that it is a requirement, it's coercive as to the forced sales tax. So I think that not everything is speculation in the pejorative sense and not everything is a wild guess. This is not a wild guess. This is based on facts, recent history, and the legal framework in which we are operating. So with that, Mr. President, I would yield the rest of my time to Senator Chambers if he would have it. [LB44]

SPEAKER SCHEER: Senator Chambers, 1:30. [LB44]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, with all due respect to Senator Briese and Senator Groene, my seatmate who ordinarily makes a lot of sense, kind of stumbled this evening. She said her district wants it. Senator Briese's district wants it. Senator Groene's district want it. Well, the fact that Senator Briese's district sent him here takes away the argument that his district ought to be listened to. The fact that Senator Groene was sent here does the same thing and they understand. But here is the whole thing. If you ask anybody, should somebody else pay taxes? The answer is yes. If you gave them this nonsense and said does that make sense to you and should the Legislature pass a law saying that there is a penalty if you don't do this but you don't have to pay the penalty, they'd scratch their head. Do you think that a company that would have to pay this penalty will give the state the information it needs to make them pay the penalty? They'd say that's stone crazy. Even the Nebraska Legislature wouldn't do that. Well, the Colorado legislature did it. And now Nebraska is falling into that monkey see, monkey do mode. If it's good enough for Colorado, it's good enough for Nebraska. Maybe it's good enough for Senator Briese's district, Senator Groene's district, Senator Watermeier's district. [LB44]

Floor Debate  
May 04, 2017

---

SPEAKER SCHEER: Time, Senator. [LB44]

SENATOR CHAMBERS: Thank you, Mr. President. [LB44]

SPEAKER SCHEER: Thank you, Senator Chambers and Senator Hilgers. Senator Smith, you're recognized. [LB44]

SENATOR SMITH: Thank you, Mr. President. And colleagues, I just want to stand and just make this comment that helping businesses is never about increasing taxes. That's not the solution. This bill, I had stood and opposed this bill when it was on General File and I continue to oppose this bill. I know there has been some changes made to it with these amendments attempting to make it constitutional. But this bill, again, is just simply an empty promise of new revenues for our state. I do sympathize with main street businesses that are suffering and fighting to compete on a level playing field, but this bill isn't the solution. In my own business, we have a retail portion of the business and we have customers that will call and say that they can find a particular product that we sell on-line for cheaper. I get that. It's frustrating to deal with that. Doesn't make it better to any of our retailers for me to say that I've experienced the same thing. But this bill doesn't help them, in my opinion. It just simply does not. It's an empty promise. Also notable are the unenforceable reporting requirements and information privacy concerns. This is a feel good bill intended to make us feel that we're accomplishing something and helping our main street businesses to be competitive. But it simply does not deliver the results. If we're interested in our small businesses being more competitive, if we're interested in helping our small businesses, you know, it's back to we need to give them tax relief and we need to reduce regulatory burdens on them. But this bill does neither. In terms of the voice of the people, I know what we're hearing from the voices of businesses that are struggling that are looking for some way to play on a level playing field. But again, I just...I hate that we are giving false hope that this bill is answering that. So I stand in opposition to AM1074 and LB44. And if Senator Chambers would like my remaining time, he's free to it to continue his remarks. [LB44]

SENATOR LINDSTROM PRESIDING

SENATOR LINDSTROM: Senator Chambers, you're yielded 2:34. [LB44]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Smith. Members of the Legislature and especially Senator McCollister also--I don't want to leave him out because he has been participating in the discussion--do you think the fact that Amazon is voluntarily collecting these sales taxes will make the mom and pop grocery store now able to compete with Amazon? Is the only difference between Amazon, these other big sellers, and the little stores on main street in these little towns the fact that these little stores collect the sales tax and remit it and the big

Floor Debate  
May 04, 2017

---

stores that have maybe a global market don't collect and remit it? That's the only difference? Then people don't understand business. They don't understand anything, but the fact is they do understand. They think that any little thing is better than nothing, but sometimes a little something is worse than nothing. If you have a sickness and you take a medication and you don't take enough to knock out the bug, you strengthen the bug. It develops a resistance. Then by the time you say, well, I better take the full dosage, well, then the bug laughs at you. It says, I'm the Popeye bug and you fed me spinach. Now you cannot do anything with me. I'm surprised that people on this floor, after all the talking they did about business... [LB44]

SENATOR LINDSTROM: One minute. [LB44]

SENATOR CHAMBERS: ...when they were talking about giving these tax breaks and these incentives can now say that the only thing that stands between these little stores competing with Amazon is that they collect the sales tax in Nebraska and Amazon does not. Well, now Amazon does collect it. So then does that put them in a better position or a worse position vis-a-vis the little store or the little store vis-a-vis Amazon? It has nothing to do with anything. And I say again, nobody is going to give you the stick to beat them with so you all are chasing a pipe dream. You're chasing a will-o'-the-wisp. You're chasing a chimera. In other words, imagination is funny and you all are giving into imagination. Thank you, Mr. President. [LB44]

SENATOR LINDSTROM: Thank you, Senator Chambers and Senator Smith. Senator Blood, you're recognized. [LB44]

SENATOR BLOOD: Thank you, Mr. President. Fellow Senators, friends all, even Senator Chambers tonight, I'm listening very carefully to everything that's being said because I am going to continue to fight against this floor amendment and in favor of Senator Watermeier's amendment and his bill because that is what my constituents want. And I'm here to represent District 3. And I have to clarify something. It isn't other people paying the tax. It was very clear with my constituents that they indeed were the ones that were going to be paying this tax because they understood that it was already an existing one that had not been addressed, so I want to clarify that. So we're talking about lawsuits. I think it's hilarious, as Senator Hilgers does his lawyer speak again. And I got to say sometimes and I respect the heck of you, Senator Hilgers, but I feel like I'm in an episode of "Charlie Brown"--wah, wah, wah, wah. Why weren't we worried about lawsuits last night when we were talking about the ratio for caseworkers--30 to 1 as opposed to 17 to 1? I'm waiting for those caseworkers to line up and start suing the state on that one. No one seemed worried about that. And that's the problem with lawyer speak. We're able to talk about whether something is constitutional, not constitutional, based on whether we want that bill to pass or not. Not always facts, lots of speculation. And Colorado is not the only state collecting Internet sales tax. Iowa, Louisiana, Mississippi, Missouri, Rhode Island, South

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

Floor Debate  
May 04, 2017

---

Dakota, Utah, Vermont, Wyoming, we'd be in great company. To say that it's false hope, it's only false hope if that it the only way we're trying to generate income for Nebraska. We have got to find new and creative ways to generate income, not constantly cut our budget, because that is not a long-term solution. That is kicking the can down the road. Long-term solutions are about finding ways to generate income, no matter how small the increments, until we get a big enough increment that we can give good tax relief to our citizens. Not end up like Kansas, not end up bankrupt. We have got to start planning. I just hate that we're always talking about taxes and that is what we're here for and we are, but where are the solutions? Cuts to the budget are not solutions. And then it stuck in my craw when Senator Chambers said that this was a nonsensical bill. So the meaning of nonsensical is that it is meaningless. This bill is meaningful. That it is senseless; this bill makes sense. And that it is illogical. This is a logical way to generate income. We need to do this. We need to pursue the taxes for Airbnb that already exist in state statute. We can do a better job of creating income so we can take care of the least, so we can take care of those who need us to embrace them and feed them and clothe them and provide healthcare, because we can never help these people that are impoverished unless we do a better job with our budget. And we cannot do that, Senator Chambers, unless we find a better way to generate income. And you say not this bill, but I know you can help Senator Watermeier get this bill to where it needs to be so we can help. What are the three Ls? Would you yield to a question? I think I have like 30 seconds. [LB44]

SENATOR LINDSTROM: Senator Chambers, will you yield to a question? [LB44]

SENATOR CHAMBERS: I didn't get it. [LB44]

SENATOR BLOOD: What is your question--the three Ls? [LB44]

SENATOR CHAMBERS: Say it again. [LB44]

SENATOR BLOOD: What are the three Ls, Senator Chambers? The least... [LB44]

SENATOR CHAMBERS: The least, the last, and the lost will not be helped by this bill. [LB44]

SENATOR BLOOD: They will be helped by the income that this generates. Let's do better for them. [LB44]

SENATOR LINDSTROM: One minute. [LB44]

SENATOR BLOOD: Thank you, Mr. President. [LB44]

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

Floor Debate  
May 04, 2017

---

SENATOR LINDSTROM: Thank you, Senators Blood and Chambers. Senator McCollister, you are now recognized and this is your third time. [LB44]

SENATOR MCCOLLISTER: Thank you, Mr. President. It could well be that the statutes that we're relying on from Colorado are weak. You know, maybe they are based on flimsy legal precepts, but the statute has not been challenged since the Tenth Circuit; and here Colorado is collecting sales tax based on that flimsy law. Maybe they get the last laugh. And I know for a fact that people do, in fact, base their purchase decision on sales tax. Just look at the restaurant tax because I know that folks in Papillion get folks from Omaha that want to avoid the restaurant tax so they go out of town to avoid paying that tax, particularly if they're doing a banquet or something else that's going to run into the high cost. And the fact that people do, in fact, base their purchase decision on what they can buy something on over the Internet. That's my own experience. I would buy a drug that I was using for my diabetes in Canada and it was considerably cheaper. So using the Internet to shop for certain things is something that people do. And you're just kidding yourself if you think that folks don't base a purchase decision on the sales tax they may have to pay. Thank you, Mr. President. [LB44]

SENATOR LINDSTROM: Thank you, Senator McCollister. Senator Ebke, you're now recognized. [LB44]

SENATOR EBKE: Thank you, Mr. President. I haven't said anything about this bill yet. In fact, I haven't said much of anything at all today. And it occurs to me, while we're waiting for...I think there is some discussion going on in the back room, so Senator Watermeier will probably be back here shortly. But I thought we might talk for just a couple of minutes about sort of the deeper philosophical issues. You know, we all want to collect, as policyholders, we want to collect taxes that are due and our statutes currently say that these sales taxes are due. The problem, though, is that we have a competing element here. The problem we have is the free market. And I know that many have suggested that collecting these taxes will even the playing field. Well, no, it won't. Even if...you know, I still buy stuff from Amazon, and I'm cheap. But I can get my stuff from Amazon cheaper, not because they collect the sales taxes but because they can buy in bulk and there's a convenience. This is basic free market economics. You know, you buy in bulk. You can buy...Amazon can buy a whole lot more widgets than the local Ace Hardware can which means you have the benefit of a significant purchasing power, so they can still send us things for a whole lot cheaper. My Amazon Prime is great. But certainly we want to try to figure out, maybe we need to find a way to encourage people to report their taxes. It's easy not to. And maybe we need to have more public service announcements encouraging people and reminding people, besides on their income tax forms, that they owe this. But I think there is a real element here. We are in a time when we are stretched for cash, and there's an appeal to kind of bring the force of government in play to try to collect this money. And if it was in the state, yes, but the Internet doesn't really work that way. We may be buying things from people across

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

Floor Debate  
May 04, 2017

---

the country, across the world. It's going to be impossible to figure out where they've actually shipped things from and how to practically do this is tough. I am of mixed feelings on this bill. But I wanted to make some mention of some of these market issues. And if Senator Chambers would like any of my time, I would be happy to yield to him. [LB44]

SENATOR LINDSTROM: Senator Chambers, you're yielded 2:09. [LB44]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Ebke. Now I will ask Senator McCollister a question if he would yield. [LB44]

SENATOR LINDSTROM: Senator McCollister, will you yield? [LB44]

SENATOR McCOLLISTER: Yes, I will. [LB44]

SENATOR CHAMBERS: Senator McCollister, I'm going to preface this question with my statement that I want legislation that makes sense and that passes my standard. In the amendment it says that if a person does not voluntarily choose to comply with paying the tax, then they must give a notice to each purchaser that this use tax is due on certain purchases. That's a requirement. If there's a failure to provide this notice, then the seller will be assessed a penalty. How is the state going to know that the purchaser was not given this notice? [LB44]

SENATOR McCOLLISTER: I quite agree with you, Senator Chambers. It doesn't follow. To assume that a seller will follow that... [LB44]

SENATOR LINDSTROM: One minute. [LB44]

SENATOR McCOLLISTER: ...the dictates of this bill because of some imaginary penalty is quite accurate. I agree with you. [LB44]

SENATOR CHAMBERS: So if that language was stricken, it wouldn't hurt the bill, would it? [LB44]

SENATOR McCOLLISTER: The voluntary language you say? [LB44]

SENATOR CHAMBERS: Yes. This stuff about requiring the notice to be given; and if not, then the seller will be fined. [LB44]

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

Floor Debate  
May 04, 2017

---

SENATOR McCOLLISTER: I agree. I quite agree. [LB44]

SENATOR CHAMBERS: Thank you. You know what? Maybe Senator McCollister is somebody that I could work with on this bill and we would strike out all of the nonsensical language. And when we got through, the only thing that would be left is that portion that says, if a company voluntarily collects and sends the tax in, then should a law be passed requiring it, they would be exempt from the requirements of that law. Let that be it and get rid of everything else. But that's what I offered Senator Watermeier but the one he is working with, the ones, cannot accept that... [LB44]

SENATOR LINDSTROM: Time, Senator. [LB44]

SENATOR CHAMBERS: ...so I have to go through this...thank you, Mr. President. [LB44]

SENATOR LINDSTROM: Thank you, Senators Ebke, Chambers, and McCollister. Senator Baker, you're now recognized. [LB44]

SENATOR BAKER: Thank you, Mr. President. Senator McCollister, would you yield to a question? [LB44]

SENATOR LINDSTROM: Senator McCollister, would you yield? [LB44]

SENATOR McCOLLISTER: Yes, I will. [LB44]

SENATOR BAKER: Would you like more time? [LB44]

SENATOR McCOLLISTER: Can you repeat that? [LB44]

SENATOR BAKER: Would you like more time? [LB44]

SENATOR McCOLLISTER: No, I'm fine. I would say...yes, I would like more time. Thank you, Senator Baker. [LB44]

SENATOR BAKER: Then I would yield my time to Senator McCollister. [LB44]

SENATOR LINDSTROM: Senator McCollister, you're yielded 4:30. [LB44]

Floor Debate  
May 04, 2017

---

SENATOR McCOLLISTER: Thank you, Senator Baker. Senator Chambers had some good comments, and I would encourage Senator Watermeier to adopt the suggestion that Senator Chambers has made. You know, I think a great number of on-line retailers would comply with such a request, given the fact that Amazon has themselves started to remit sales tax to states where sales have occurred. I think that's the coming thing. And as the legal issues start to clear up on some of these on-line sales, I think that will be even a greater fact. So over this time we can continue this debate. Maybe we can pass a law this year or not. I'm not exactly sure. But on the...over the long term I think we'll start collecting on-line sales tax receipts. Thank you, Mr. President. [LB44]

SENATOR LINDSTROM: Thank you, Senators Baker and McCollister. Senator Brasch, you're recognized. [LB44]

SENATOR BRASCH: Thank you, Mr. President. And good evening, colleagues. I rise to support Senator Chambers' FA64. I do love our main street businesses, absolutely. And, in fact, my husband thinks I love them way too much. I believe that our main street businesses are very compelling because they're very personal. They are convenient to have something there immediately. But I hear we're talking about taxes. We want the money; we want the taxes; we want the revenue. So do we want the taxes or do we want to help main street? The message is very confusing. I want us to be legal. I don't want Nebraska to be an impulse state where if it looks good, feels good, tastes good, let's do it regardless of the consequences. I think we need to follow the law. We need to wait for the laws to pass. I offered time to Senator Chambers this evening. I could see that he was out of time, and his dialogue with Senator Blood, I felt like some woman should rescue him. He was defenseless to speak and defend himself. Senator Chambers, I'd like to yield you my time. [LB44]

SENATOR LINDSTROM: Senator Chambers, you're yielded 3:29. [LB44]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Brasch. I'm going to go down to another statement on page 3 of the amendment, and I won't do it by asking Senator McCollister because it takes time to go back and forth. But this is another notification. The seller shall "Send notification to all Nebraska purchasers by January 31 of each year showing the total amount paid by the purchaser for Nebraska purchases made from the remote seller in the previous calendar year." Suppose the person had purchased something for \$3. Then the seller is going to send this notification to that purchaser, that that purchaser purchased \$3. The purchaser would say, what is wrong with this company? I know what I purchased. So that's pointless. Then it goes on to say: that information must be submitted to the purchaser and other information as the department shall require by rule and regulation. What else is the department going to require that the seller send to the purchaser in addition to the total amount that was purchased? That

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

Floor Debate  
May 04, 2017

---

makes no sense whatsoever. Then "Such notification shall include, if available," and the only way that it will be known to the tax collector is if the seller sends it. But anyway, "Such notification shall include, if available, the dates of purchases, the amounts of each purchase, and the category of the purchase, including, if known by the...seller, whether the purchase is exempt or not exempt from taxation." How does a seller know what will be taxed or exempt from taxation in Nebraska? People in Nebraska may not even know. This is total nonsense. It is gibberish and it is what philosophers would call...well, I won't use the term. You may as well not inject that in because it would be confusing but it means...well, I'll...it's unintelligible. It makes no sense whatsoever. [LB44]

SENATOR LINDSTROM: One minute. [LB44]

SENATOR CHAMBERS: You are heaping up information that the seller is going to have to send to somebody who may have spent a dollar. So the seller says, I'm not going to send it. So here's what happens. If the seller refuses to send it, then that seller is going to be subject to a \$10 fine which cannot be collected. And I'm going to be told that this is a logical bill, that it makes sense? I said that if Senator Watermeier would strike Section 5, my concern with the bill would be over. That doesn't mean it's a good bill, but some of this crazy stuff would be taken out. And I'm going to take all the time that I can get for the record to show how silly this bill is, what we as members of the Legislature are being asked to enact into law. Thank you, Mr. President. [LB44]

SENATOR LINDSTROM: Time. Thank you, Senators Brasch and Chambers. Senator Clements, you're recognized. [LB44]

SENATOR CLEMENTS: Thank you, Mr. President. I'm standing to oppose LB44 at this time. I did figure my use tax this year, and paid it. I think it was line 38 of the Nebraska tax return. Wasn't all that big of an expense. And those people out in Nebraska who are listening, I encourage you to do some figuring and just voluntarily do this. My concern is that there's a risk of the lawsuit to the state and the expense...time and expense of going through that litigation. I'd rather wait a year to let a higher court rule and decide this for us. Also I've heard that there some privacy concerns with businesses having personal, private information, whether it will be secure sending it to the state. Not sure how all that is going to be gathered up and kept privately. With that, I'd like to yield my time to Senator Chambers if he would like it. [LB44]

SENATOR LINDSTROM: Senator Chambers, you're yielded 3:55. [LB44]

SENATOR CHAMBERS: Thank you, Mr. President; and thank you, Senator Clements. I'm going to read directly from the bill more on this notification. This is what the seller is going to have to do. "The notification shall be sent separately to all Nebraska purchasers by first-class

Floor Debate  
May 04, 2017

---

mail and shall not be included with any other shipments. The notification shall include the words 'Important Tax Document Enclosed' on the exterior of the mailing. The notification shall include the name of the remote seller. Failure to send the notification required in this subdivision shall subject the remote seller to a penalty of ten dollars for each such failure unless the remote seller shows reasonable cause for such failure." It doesn't say what reasonable cause is. All the seller has to say is, it's unreasonable to require a businessperson to send this meaningless information. Now that's a reasonable reason for not doing it. What sense does this make? Nobody could pay me to bring a bill like this and present it to you all unless the Speaker would schedule it for April 1. Then after I began going through all this, confused you, I would say April fool. They're trying to make April fools out of this Legislature every day of the session. This does not make sense and those who support the bill could not explain it. Senator Briese tried valiantly to make sense out of nonsense. He tried to make a silk purse out of a sow's ear. He tried to bring a clean thing out of an unclean thing bringing the water he dredged up from a septic tank. It's impossible. But that's what they want the Legislature to enact. There sits Senator McCollister, and the only reason I won't ask him these questions because he'll give sensible answers. He'll take all the fun out of it for me. He'll say, I agree with you. We should not say that if you don't put on the envelope "this is a tax document" then you'll be fined \$10. Oh, and by the way, we can't collect the fine. I'd ask him, does that make sense? He'd say, well, no. Do you think that that needs to be in the bill? Well, no. What fun is that? I don't have fun during these kinds of exercises... [LB44]

SENATOR LINDSTROM: One minute. [LB44]

SENATOR CHAMBERS: ...when I'm dealing with somebody who is sensible. That's why I'll ask Senator Briese a question every now and then and Senator Watermeier but he is headed for the hills. You notice he is not here. I don't know where he is hiding but he's probably thankful that he's not here. And I'm going to take a vote on this amendment. And if I don't get enough votes to strike Section 5, then I'm going to start offering individual amendments to strip out portions of Section 5. And I'm going to see if I call your attention specifically to it, you're going to put your vote behind keeping that nonsense in the bill. Thank you, Mr. President. [LB44]

SENATOR LINDSTROM: Thank you, Senator Chambers and Senator Clements. Senator Kuehn, you're now recognized. [LB44]

SENATOR KUEHN: Thank you, Mr. President. Thank you, colleagues. I again appreciate the continued ongoing discussion about some of the issues that are surrounding this particular piece of legislation. I appreciate a lot of the discussion and I appreciate the level of enthusiasm which the individuals supporting LB44 continue to move forward with. I, again, want to though remind us about what are we actually advocating for? And I keep hearing again people talking about that this is going to make the fundamental difference between keeping Gordmans, JCPenney, and

Floor Debate  
May 04, 2017

---

other brick and mortar stores open and that the reason that they have fundamentally had struggles economically is the lack of competition from on-line retailers that are not collecting Internet sales tax. And again, I'm going to ask whether that is even an argument which is based in reality. So who would be the biggest competitor for an on-line presence for Gordmans? There are a number of those clothing retailers that also have a brick and mortar presence that are collecting and remitting the sales tax and they're still taking a bigger part of the market share. We're assuming that the sole deterrent for purchasing is the charging and the assessment of sales tax. And I would simply argue that that is on its face not true. People's consumer habits are because of convenience, because of overall cost. The overhead is lower for on-line retailers compared to brick and mortar stores. The base price for the product is in many cases lower. And by pretending or deciding that we are going to save main street businesses with LB44 is ignoring the reality and ignoring taking positive steps forward to help make those businesses survive. So on its base, I do not buy this argument regardless of what some of our communities may be advocating for and their perception of their economic reality. And I want to point out kind of a little bit of this hypocrisy, and I might get a little...I'm sure I'll get some angry e-mails about it. But we had a meeting with a group of tri-city chambers a week ago where this issue came up and it was interesting that a representative of a particular group who is advocating for this also owns a business which has an on-line platform. And he acknowledged to the group that he doesn't collect and remit the sales tax when he sells products via his Internet platform to other states, which is an irony that I can't even begin to describe--that you have an individual advocating for the collection of this tax in Nebraska but their on business is not collecting and remitting it onward. I know that there's a fundamental fairness issue. I know there's a fundamental issue that people are talking about in terms of the competition. I think we need to come back to what we're really talking about and what the real issue is between brick and mortar businesses and Internet businesses in terms of competition and what we're willing to sacrifice and put aside to do something that we may or may not actually result in either more income to the state or increased competitiveness with businesses and Internet retailers. Again, I want to ask us to think why the commerce clause was put in place to begin with. And granted, we are in a whole new world. The founders could never have envisioned e-commerce; they never could have envisioned the Internet at the time. But the commerce clause is not about necessarily prohibiting the ability of a state to do and collect its taxes. The commerce clause is to keep other states from reaching into our state and enforcing other state laws upon Nebraska businesses and Nebraska citizens. [LB44]

SENATOR LINDSTROM: One minute. [LB44]

SENATOR KUEHN: Thank you, Mr. President. Another philosophical point which I continue to struggle with in this entire discussion is what are we doing with regard to our state sovereignty when we are wanting to evaporate those borders in the Internet and allow our state to reach into other state borders and by extension promoting the concept of allowing other states to reach into our borders with their tax policy, their auditing and enforcement standards and what that means

Floor Debate  
May 04, 2017

---

long-term for our businesses. We're looking so carefully at the short-term gain and things that may or not be in reality with regard to competition. We're not truly contemplating and reflecting why the Quill decision was put in place, why the commerce clause is there, why we have that idea of state sovereignty. So I will continue to reinforce that idea and bring it before the body for consideration, even if it simply becomes a matter of people voting because their local chamber tells them we have to have this in order to keep... [LB44]

SENATOR LINDSTROM: Time, Senator. [LB44]

SENATOR KUEHN: ...the local grocery store open. Thank you, colleagues. [LB44]

SENATOR LINDSTROM: Thank you, Senator Kuehn. Senator Lowe, you're recognized. [LB44]

SENATOR LOWE: Thank you, Mr. President. You know, my friends own the brick and mortar stores. They're having trouble. But is it because of the Internet sales tax or is it just because a new competition is in town? You look at the brick and mortar stores. They have very nice lighting. They have polished floors. They have decorations everywhere. They have nice shelving. Everything is aligned very beautiful to get you to buy things. It's eye-appealing. What does an Internet business have? They have a Web page. They can update it every three months. It never really gets out of order. They don't have to have sales people to go back and rearrange things. We're in the twenty-first century, folks. It's not the tax that is causing this. It's the times. It's a sad deal and I want our brick and mortars to stay alive. That's why I don't shop on the Internet. I started to think and it's been 25 years almost since I bought anything on-line because I bought something one of the first years that I could use the Internet. But my friends own the brick and mortar stores. If we want them to stay around, buy stuff locally. Buy stuff from your friends and not some other country, some other state. You know, one of these days we're going to have to figure out if we pass the Internet sales tax, we're going to have to find out how to replace the Internet sales tax because of digital printers. They're not going to be buying things on-line. You're going to make it at your home with a digital printer, whether it be plastic clothing or a piece for your car or whatever else. I'd like Senator Chambers, if he would answer a question for me. [LB44]

SENATOR LINDSTROM: Senator Chambers, would you yield? [LB44]

SENATOR CHAMBERS: Yes, I will. [LB44]

SENATOR LOWE: The other day you referenced God and Charlton Heston played God. [LB44]

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

Floor Debate  
May 04, 2017

---

SENATOR CHAMBERS: Which he didn't. He played Moses. [LB44]

SENATOR LOWE: He played Moses. Do you know who played God? [LB44]

SENATOR CHAMBERS: Several people. A guy named Carrey, Morgan Freeman, George Burns. [LB44]

SENATOR LOWE: George Burns, that's right. [LB44]

SENATOR CHAMBERS: And all of them did a better job than the real one. [LB44]

SENATOR LOWE: I just wondered if you realized you made a small mistake and that may be the only one this year. I'd like to yield the rest of my time to Senator Chambers if he would like to take it. [LB44]

SENATOR LINDSTROM: You're yielded 2:07. [LB44]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Lowe. And I'm going to go on a little more with these notices. Each one of these is a different notice. This seller must "File an annual statement for each purchaser with the department on such forms as are provided or approved by the department"--no forms exist right now--"showing the total amount paid for Nebraska purchases by such purchasers during the preceding calendar year or any portion thereof, and such annual statement shall be filed on or before March 1 of each year. The department may require any remote seller that makes total Nebraska sales of more than one hundred thousand dollars in a year to file the annual statement described in the subdivision electronically for that year." Well, above they require it to be sent by first-class mail, with a notice on the outside that it is a tax document. [LB44]

SENATOR LINDSTROM: One minute. [LB44]

SENATOR CHAMBERS: Now they're saying that they may require certain stores to file electronically. So some have to send it by mail, they must, others electronically. Why cannot those who are sending it by mail send theirs electronically if they choose to do so? Because you have some foolish people in Colorado who cannot focus by the time they get to line 10, what they had written on line 4. So there are contradictions and inconsistencies throughout this. And maybe what I ought to do is stop, but I'm not, stop opposing it. Let the Legislature pass it. But curses, the Governor would veto it. So I couldn't get you all on record as being foolish like I

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

Floor Debate  
May 04, 2017

---

want. So I'll just have to go on doing the best that I can. And I want to emphasize this one thing. The information on which any of these notices will be based must come from the seller. [LB44]

SENATOR LINDSTROM: Time, Senator. [LB44]

SENATOR CHAMBERS: Thank you, Mr. President. [LB44]

SENATOR LINDSTROM: Thank you, Senator Chambers, Senator Lowe. Senator Brasch, you're recognized. [LB44]

SENATOR BRASCH: Thank you, Mr. President. And good evening, colleagues. The debate on this, this evening has been interesting. It's compelling to hear all the reasons why we should try to jump the law, get a head start, put this before the books and all, I guess, all risks go to court. That doesn't seem like the Nebraska way. I would like to yield the rest of my time to Senator Chambers. [LB44]

SENATOR LINDSTROM: Senator Chambers, you're yielded 4:20. [LB44]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Brasch. Members of the Legislature, let me tell you what happened that got me into this. I mentioned it the first day I took out after this bill. Somebody brought me the amendment that we're discussing now and asked that I read it. And I did read it. And that is when the problem started. I read English slowly but I read it carefully. I read it well and I understand what I read. The parts did not hang together. The amendment as a whole does not make sense. It does not achieve the goal that is intended, which we're told is to make these sellers collect sales tax on purchases made from them by people who live in Nebraska. After saying that's what the purpose is, they go on for several pages with total gibberish and nonsense. If there were a writing class and the students were told to write something, some kind of paper and this was the result, the student would get an A for creative writing, meaning that a universe that is totally incomprehensible was created but get an F for logic and rationality. This is irrational. I doubt that anybody else would have brought this bill. You know why Senator Watermeier brought it? Senator Watermeier is more accommodating than a lot of senators, and I streamed back to the time when he got this. The first time he read it I heard this grinding and it was his teeth grinding down because he had gotten himself into something. And Senator Watermeier knows that this is not a good bill. And you'll notice I haven't been trying to grill him. I would ask a question every now and then to confirm that what I'm asking about is, in fact, in the amendment. But nobody can defend this, nobody. Senator McCollister is for what the bill is trying to do. But the devil is in the details; and when we got to the details, he could not support them. Since Senator Lowe mentioned that I had referenced God the other day, I'll quote from the "Bible." The little foxes destroy the vines. That's a verse. The

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

Floor Debate  
May 04, 2017

---

little things. Isn't there a song, "Little Things Mean a Lot"? Sometimes they mean everything. I did get some enjoyment out of jousting with Senator Briese. He will not make wagers with me, but he was contesting with me which is the next best thing. And he had to acknowledge that some of the things that were going on in here, he couldn't explain why they were there. [LB44]

SENATOR LINDSTROM: One minute. [LB44]

SENATOR CHAMBERS: Who could, if you're a lawmaker, justify trying to enforce provisions of a law by attaching a penalty that cannot be carried out? Not that will not be carried out but it cannot be carried out. It would be like saying if you do not do a, b, c, and d, you will be sent to Mars at 3:00 tomorrow, with no way to get back. You'd laugh at it. That's what this is. I don't think that the people who want this bill would want somebody like me on the floor of the Legislature when they presented it. I think that people who are interested in quality legislating would want somebody like me on the floor. This should not make it to the Governor's desk, not because I'm trying to spare him any grief. He'd probably die from laughing. [LB44]

SENATOR LINDSTROM: Time, Senator. [LB44]

SENATOR CHAMBERS: But I don't want him to be...thank you, Mr. President. [LB44]

SENATOR LINDSTROM: Thank you, Senator Chambers, Senator Brasch. Mr. Speaker for an announcement. [LB44]

SPEAKER SCHEER: Thank you, Mr. President. We've met the allotted time on this and so we will be moving forward. Are there any announcements, Mr. Clerk? [LB44]

CLERK: Mr. President, there are. Thank you, Mr. Speaker. New resolution, LR129 by Senator Kolowski. It calls for an interim study. That will be referred to the Executive Board. Senator Burke Harr an amendment to LB512 to be printed. (Legislative Journal page 1361.) [LR129 LB512]

Mr. President, Senator Schumacher would move to adjourn the body until Friday, May 5, at 9:00 a.m.

SENATOR LINDSTROM: The motion before us is to adjourn. All those in favor say aye. All those opposed say nay. We are adjourned.