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Rough Draft

Floor Debate
March 13, 2019

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SCHEER: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fortieth day of the One Hundred Sixth Legislature, First Session. Our chaplain today is Pastor Tom Starkjohn from the Louisville Evangelical Free Church in Louisville, Nebraska, Senator Clements district. Would you please rise?

PASTOR STARKJOHN: (Prayer offered.)

SCHEER: Thank you, Pastor Starkjohn. I call to order the fortieth day of the One Hundred Sixth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

SCHEER: Thank you. Are there any corrections for the Journal?

ASSISTANT CLERK: No corrections this morning.

SCHEER: Are there any messages, reports, or announcements?

ASSISTANT CLERK: Mr. President, communication from the Governor to the Clerk. (Read re LB22, LB25, LB25A, LB52, LB60, LB74, LB80, LB81, LB103, LB111, LB119, LB152, LB159, LB185, LB192, LB192A, LB200, LB203, LB214, LB223, LB235, LB256, LB307, LB333, LB372, LB380, LB406, LB442, LB469, LB536, LB622 and LB634.) In addition to that, appointments to the State Personnel Board; to the Commission for Deaf and Hard of Hearing; and the Commission on Problem Gambling. Have a potential conflict of interest statement from Senator Lowe. Your Committee on Government reports LB375, LB452, LB524, LB525, LB583, and LB609 to General File, and LB511 to General File with amendments. Your Committee on Enrollment and Review reports that it has carefully examined and reviewed LB463 and placed the same on Select File. That's all I have at this time.

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SCHEER: Thank you, Mr. Clerk. (Visitors introduced.) First item, Mr. Clerk.

ASSISTANT CLERK: Mr. President, first bill this morning is LB309 on Select File. There are no E&R amendments. The first amendment I have is from Senator La Grone, AM471.

SCHEER: Senator La Grone, you're recognized.

LA GRONE: Thank you, Mr. President, and I'll just refresh everyone on how we got here quickly before I ask Senator Lathrop to yield to a question. So if you remember on General File on this bill, I agreed to pull my amendments so we could talk about them on Select File. I completely agreed that Douglas County needs another judge. I think it's vitally important. I think the caseload show that. My issue is that I think that with our property tax issue, we cannot keep passing the buck down to the counties. The state needs to pay its bills. I think that our court system is a statewide interest. It is something that the state requires of the counties, which means it's actually the state spending the money. So I think that the state needs to be honest about how much money it's spending and bring that money back on to our rolls, and that's exactly what my amendment would do. What it says is essentially for a number of items that are required for a successful court system, the state has to pay those costs. And so what the agreement was on General File, is that I would reintroduce this amendment on Select File, and I would walk through it with Senator Lathrop, and then we'd vote on it and that would be all I would do on this bill. So with that, would Senator Lathrop yield to a question?

SCHEER: Senator Lathrop, would you please yield?

LATHROP: Yes, I'd be happy to.

LA GRONE: Thank you, Senator Lathrop. Would you agree that our well-functioned court system is a statewide interest?

LATHROP: Sure.

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LA GRONE: Okay. So, per what we talked about off the mike, I'm just going to go through and walk through the many different provisions that this amendment addresses, and you have the amendment in front of you, correct?

LATHROP: I do.

LA GRONE: Okay. So the state starts out with the state shall annually-- excuse me, the amendment starts out with the state shall annually reimburse counties for costs incurred in operating of budgets of courts, including supplies, court costs, attorneys fees, equipment, including computers. That list of items, would you agree that that is necessary for a well-functioning court system?

LATHROP: I think they're all part of our current court system, yes.

LA GRONE: Okay. Now we're going to move to Section 2. The state shall annually reimburse counties for costs related to district courts including expenditures for, and we'll take these one by one, law clerks. Do you think law clerks are a necessary part of our court system?

LATHROP: Actually, I was a law clerk for the district court at one time, and I think they're necessary.

LA GRONE: Thank you, Senator Lathrop. And then moving on to bailiffs, would you agree that bailiffs are a necessary part of our court system?

LATHROP: Yes.

LA GRONE: And would you agree that ensuring that they have adequate health and dental insurance is one of the best way to attract qualified individuals for these positions?

LATHROP: Sure.

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LA GRONE: Now moving down to (2) in Section 2, would you agree that the appointment of counsel for those that cannot afford it is a necessary part of our court system?

LATHROP: It's a necessary part of justice in criminal cases.

LA GRONE: Okay, which I'll take that, basically, as yes. I completely agree with what you said. I think we're doing it in the same-- we're seeing the same light there. Now this is one that I honestly, this next one, (3), is one that I, with the advent of technology, I was kind of questioning myself, and that's law library costs. With the advent of new legal technologies like Lexis, Nexus, Westlaw, etcetera, do you think that law library costs are still a necessary expense for our court system?

LATHROP: You know, I haven't been in Douglas County's law library in 20 years. I think most everything everybody gets that practices law gets it off of Westlaw, but I suppose the public defender and the county attorney probably have Westlaw accounts they're paying for.

LA GRONE: Okay. And that's something that I included in the amendment, because I wanted to include everything in the amendment. There's been much discussion off the floor on this, and there will be a-- coming interim study, so whether that is a necessary cost for our court system is something that I'm sure will be looked at in that study. So (3) is something that may or may not be necessary. Now moving to (4), supplies and equipment, including computers and furniture. Would you agree that that is a necessary part of our district court system?

LATHROP: I think they're an incidental cost of having a court system.

LA GRONE: Okay. Then moving on to Section 3, the state shall annually reimburse counties for costs incurred in the operating of budgets in juvenile courts, including for, again, we'll take these one by one, bailiffs. I'm assuming that your position on bailiffs being necessary for juvenile courts is the same as with county courts and district courts, is that correct?

LATHROP: Sure.

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LA GRONE: Okay, and moving-- moving next to file clerks, would you agree in that instance, as well?

LATHROP: Sure.

LA GRONE: And a receptionist, as well?

LATHROP: I suppose, yeah. Most courts the bailiff serves that function. They're sort of the receptionist, schedule keeper, aide to the court.

LA GRONE: So there might be some times where these costs could be combined and, thereby, reduced, is that correct?

LATHROP: Might be, yeah.

LA GRONE: That's probably a decision in terms of how to run the court. That's probably a good question that we can look at in the study as well. Do you think that the decision that we should state from the state level, this is how you need to set it up, or do you think that's something that county--

LATHROP: You know, up in the juvenile court in Douglas County, they do have a receptionist that sort of greets people as they come through the front door and then they get into the courtrooms where they run into a bailiff, so there might be a receptionist in the juvenile court.

LA GRONE: So that might be something where we agree that it's a necessary cost for the function of the courts, but in terms of how to administer it might be change from court to court, is that correct?

LATHROP: Yes.

LA GRONE: Okay. Then we've already talked about the necessary appointment of counsel for the dispensation of justice. And we've gone through the supplies, etcetera. Now, there's a couple

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other things in here that I wanted to touch on briefly. Number one, Section 4, I think we can do that quickly, deals with facilities and utilities and custodial services. Would you agree that courts need adequate facilities and they need to keep the lights on and they need custodial services?

LATHROP: Sure. That's a part of running a court.

LA GRONE: Okay. Now moving to Section 5, state shall annually reimburse counties for costs incurred in providing courtroom security for county, juvenile, and district courts including for sworn deputies, civilian security officers, and security equipment. Now I want to give a little bit of background on this before we get into it. When I was talking to some of the county commissioners in Sarpy County, they indicated that courtroom security is their largest single cost. That the courts as a total budget in Sarpy County have a budget of roughly \$2.4 million and \$1.4 million of that is security costs to keep everyone who uses that court system safe. So that's something I think we definitely need to look at when we look at this issue further over the interim, is how can we best keep everyone in our courtrooms safe, but would you agree that the costs associated with that are a necessary aspect of our court system?

LATHROP: This is where you get a little bit into the gray because you walk into the Sarpy County courthouse, and I've done it a million times, you go through a security, a process. That's keeping the register of deeds safe, it's keeping the treasurer safe, it's keeping every one of the offices at the Sarpy County courthouse, same in Douglas County, wherever you have those security measures. Now there are some sheriffs that are assigned to courtrooms to make sure that, for example, if they're transporting a prisoner from a holding cell to an appearance in front of the judge, then you have deputies that do that as part of their function. So you probably have some of it that's actually unrelated to the courts or marginally related to the courts and some that are directly related to the administration of justice in criminal cases.

LA GRONE: So we might not 100 percent agree on that aspect, and that's fine, but would you-- so just to flesh that out a little more, do you think that those costs, the total-- let's assume, I'm going to give you a hypothetical here, let's say that a county courthouse, whatever county courthouse, has all the other county offices, has one security checkpoint, has your normal security checkpoint when you walk in, do you think that the level of security necessary at that

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checkpoint probably increases because the state requires the county to have the court system there?

LATHROP: I-- honestly, I don't know. I don't know if people come in and get angry with the assessor.

LA GRONE: Okay, that's fair. I would suggest that it does, but that's something that we can look into.

LATHROP: It may. It certainly adds to it.

LA GRONE: And that's something I'm sure we can flesh out more when we look into this over the interim. That's all the questions I had for you, Senator Lathrop. Thank you for going through this with me. Colleagues, I think that this just really fleshes out my point, that these are state costs. These are not county costs. These are costs that the state is requiring the county to spend. And really what that means is, we are the ones spending this money, we are just not being honest about it and we're keeping it off our books. That makes our budget look better, while at the same time putting a lot of pressure on property taxpayers. So I think it's high time that the state be honest about how much money it's spending. We bring these dollars back on to our books, so we can actually address the state spending problem. And I agree that these are necessary costs. These are costs that we need to spend money on, but we need to be able to look at our--

SCHEER: Time, Senator. Thank you, Senator La Grone and Senator Lathrop. Mr. Clerk.

ASSISTANT CLERK: Senator La Grone, I had an amendment to AM471, but I have a note to withdraw.

SCHEER: Thank you, Senator La Grone. Senator Lathrop, you're recognized.

LATHROP: Thank you, Mr. President, and colleagues, good morning. I kind of want to give you an overview of where we're at on this bill. So I have filed an amendment. I filed an amendment this morning in response to some developments coming out of Douglas County to move the

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effective date of this out of this biennium so we're going to not have a fiscal note associated with this bill. It will become effective in the next biennium, and that will take care of LB309A, and we'll take that amendment up after we deal with Senator La Grone's amendment first thing this morning. Senator La Grone has provided us with an opportunity with his amendment to talk about how the state oftentimes hands to the counties and the local political subdivisions costs that, arguably, belong with the state. This particular amendment has no fiscal note, obviously, we don't know what it would cost. My guess is, it would be north of \$100 million, if all of your counties said these are the costs associated with running our county court and our district court that the state doesn't already pay. We pay for the district court judges, and the related expenses are borne by the counties. If the counties, all 93 said, this is what it costs us and this list that's on Senator La Grone's amendment, if they all checked in and said this is what it costs us, we'd probably end up with some fiscal note over \$100 million. More maybe. And we might end up having the counties do what Douglas County's done in this case, which is try to get the state to pay for a whole bunch of things that are unrelated. I'll talk about that in time. This is a talking point. It's a worthwhile discussion to talk about how, as we have reduced revenue in this state, we have passed to political subdivisions costs that were at one time paid for by the state. Now the cost on Senator La Grone's amendment were not paid by the state in the past, but we have had a program in the past that reimbursed counties for the cost of running their jails or holding essentially state prisoners. We did away with that reimbursement when we were in the Great Recession. I was here for that. I voted against it. But the things on this list, Senator La Grone's amendment, it's not a serious amendment, it's a talking amendment, an opportunity for us to have a conversation about what's a state expense and what's the a county expense. Were this a serious amendment that would be a funding source, there's not. Because you can imagine if this amendment passed, what would happen on Final Reading. The bill would come up and now we would have a fiscal note that the counties have all participated in and it would be hundreds of millions of dollars, right? It would, effectively, kill the bill because where are we going to come up with that? Were this a serious amendment, it would have a funding source, and I would suggest to you that if we're going to pass an amendment like this, the funding source should be the property tax relief fund. If you want to pass this amendment, then let's pay for it with a property tax relief fund. If this is about property tax, what the property taxpayers are paying for their courthouses, and we take offense and find that the state should resume that responsibility or assume it, because we've never had that responsibility,--

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SCHEER: One minute.

LATHROP: --if that's the case, then let's pay for it with a property tax relief fund, and I suspect the people in Douglas County would be pretty happy with that. Not sure the people in smaller communities would be all that happy with it, because they get a lot less of the property tax relief fund than Douglas County would over that deal. So what we have in the La Grone amendment, which I'm going to ask you to vote against, is an opportunity to talk about Senator La Grone's idea for an interim study, and I support that idea. And, in fact, I will tell you, it's not just courts. As we have not paid counties reimbursement for their jails, the jails are getting full. As the state doesn't have adequate resources for mental health evaluations, the Regional Center has a 100-day waiting list. We have people sitting in county jails.

SCHEER: Time, Senator.

LATHROP: Did you say time?

SCHEER: Time, Senator. Thank you, Senator Lathrop. (Visitors introduced.) Returning to floor discussion. Seeing no one in the queue, Senator La Grone, you're welcome to close on AM471.

LA GRONE: Thank you, Mr. President. I would, real quick, I would-- this agrees with what Senator Lathrop said about how this should be paid for. The main reason I brought this amendment is because we have a property tax problem, but I think that problem is driven by our spending. And I think the only way we can address our spending is by being honest about exactly how much we're spending, bringing it all on to our books, and then hashing out what our priorities are and what we actually should be spending money on. So I'd be opposed to any money coming out of the property tax relief fund to pay for this. And I don't think that this is just a discussion point. I think that this is a very real issue. The state is spending this money. We're spending it through our authority over the counties. This is us spending the dollars. It is not the counties. We're just making them be the ones who take it from the taxpayers. This is all taxpayer money, and we need to be honest about exactly what we're doing. So I'd ask for your support on AM471, and I would suggest that a vote against this amendment is a vote against property tax relief. With that, Mr. President, I would ask for a call of the house and a roll call vote.

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SCHEER: Thank you, Senator La Grone. There's been a request for a call of the house. All those in favor of a call of the house please vote aye; all those opposed vote nay. Please record.

ASSISTANT CLERK: 17 ayes, 2 nays to go under call, Mr. President.

SCHEER: Thank you, Mr. Clerk. The house is under call. 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. All senators are accounted for. There has been a request for a roll call vote, is that correct, Senator La Grone? Mr. Clerk.

ASSISTANT CLERK: (Roll call vote taken.) The vote is 13 ayes, 27 nays, Mr. President.

SCHEER: AM471 is not adopted. Raise the call. Returning to floor discussion. Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senator Lathrop would offer AM706.

SCHEER: Senator Lathrop, you're welcome to open on AM706.

LATHROP: Thank you, Mr. President, and colleagues. Good morning, once again. AM706, very simply, moves the effective date of the additional district court judge in Douglas County to July 1, 2021. That takes it out of this biennium, eliminates the fiscal note, but more importantly what it does is it gives Douglas County an opportunity to create the space so that they are able to accommodate a new district court judge. If we made this effective immediately, they would not have a place to put this district court judge. Now, I'm going to give you a little history. When this bill came up, Douglas County did not come in and testify. When we had this on General File, Douglas County said they had no position. Since then they came up and sent out a letter suggesting that they had difficulty, because they are trying to develop an annex and they are unable to come to an agreement on what that annex to the courthouse would look like, they need more time so that they can accommodate this particular additional district court judge. I am quite disappointed with Douglas County and their building commission for not coming forward when this was heard before the committee, not coming forward on General File. They have now

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indicated the difficulty they would experience if we added this judge right away. Putting it out two years accomplishes two things. It gives Douglas County an opportunity to create the space, and it allows us to avoid the fiscal impact of adding an additional judge at this point in time. With that I would encourage your support of AM706 and LB309, and I'm happy to answer any questions you may have. Thank you.

SCHEER: Thank you, Senator Lathrop. Senator Erdman, you're recognized.

ERDMAN: Thank you, Mr. Speaker. Good morning. I've been listening to the discussion and I was watching and looked at also the map that was given out where the judges are now, and I have a couple of questions I would like to ask Senator Lathrop if he would yield to a question or two.

SCHEER: Senator Lathrop, would you please yield?

LATHROP: Yes, I'd be happy to.

ERDMAN: Senator Lathrop, I can appreciate what you're trying to do here. My question this morning is, and I don't know if you're the one that circulated the map where the judges are now, but I noticed some of those districts had more judges than they needed. One of them comes to mind, I think it was like 2.7 judges. Have you ever taken into consideration to move a judge from one of those districts here instead of creating another judge?

LATHROP: Yeah, that's part of the Judicial Resource Commission, Senator Erdman, and what they try to do, is they go through a weighted caseload, and so folks out in your district carry a certain number of divorce cases, criminal cases. They also have windshield time. They have to get around to a bunch of different courthouses. The Judicial Resource Commission weighs all that and determines what the need is. As you look at that map, and it was circulated by me, it did show that there are some people who are maybe a half of-- some communities may be a half a judge over what they need, but none of them are a full judge over what that district needs.

ERDMAN: Okay.

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LATHROP: And Douglas County is four short.

ERDMAN: Well, the one I referenced, I think, was 2.7, and I don't have that map with me, but that was my concern. I was just wondering if some thought was given there. And you said today they have a lot of windshield time to go from one courthouse to the other. They're not doing that today in western Nebraska. They're not going anywhere. The blizzard's coming today down there. We're going to get 18 inches of snow. So there won't be any court happening today in western Nebraska. Thank you.

LATHROP: Okay.

SCHEER: Thank you, Senator Erdman and Senator Lathrop. Senator Albrecht, you're recognized.

ALBRECHT: Thank you, Speaker Scheer. Good morning, Nebraska, and colleagues. Senator Lathrop, would you just yield to a couple quick questions, please?

SCHEER: Senator Lathrop, would you please yield?

LATHROP: I'd be happy to.

ALBRECHT: Thank you. Based on the vote we just took, I was hoping that was just because people were not listening to the amendment from Senator La Grone that was presented. I don't see how the state of Nebraska could possibly take this fiscal note on that he would suggest, and I'm glad that it failed. But could you help me understand in the fiscal note that we currently have, that you're suggesting will go out two years from now, would the state of Nebraska just be responsible for the \$308,831 for just the judge and his reporter and their benefits and that, is that correct?

LATHROP: The state's responsibility would be the \$306,000 and I believe that is related to the cost of the judge.

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ALBRECHT: Correct.

LATHROP: And there are incidental costs associated with that district court judge or a county court judge that aren't borne by the counties.

ALBRECHT: Okay, and so I was-- because I'm not an attorney and I don't have any information in front of me, how many-- let's just say last year, how many actual cases did those other 16 judges have to split between all of them? How many cases did they have?

LATHROP: Oh, I, honestly, I have the Judicial Resource Commission conclusions on the weighted caseload. I didn't expect that. Let me see if I can find it real quick in Douglas County. I'm not sure I'm going to be able to find it for you right now.

ALBRECHT: And I'll come back and visit a little bit more about this with you, but I just want the floor to understand that, you know, based on the number of cases, that is in their county, and those cases should be the responsibility of those judges, but as a sitting county commissioner at one time, I do understand the fact that when the state asks you to take prisoners on and they can't help pay the bill, they'll pay as long as they can, but when they run out of money it's on the county. And to put that on a county is tough, but if Douglas County is trying to figure out where they're going to put these people and how they're going to fund it, they should be allowed some time to do so. And that's where I could stand in support of AM706 for that reason. I wouldn't want to just put it on them without them having any ability to pay, you know, because it's going to be put on the taxpayer if they need to build a larger facility to house these folks. But my bigger concern right now is with the judges and what is their caseload and how many, you know, do they all get the same number of cases. You know, some are going to be spread out a little longer than others, but maybe yourself or someone else can help me look at those numbers. But I understand when there's a caseload that everybody can't get to, but is that just a-- is that just a season that we're going through that we have a lot more cases than we have had in the last two or three years, or is it something that is going on within that community that's causing more problems than not? But I do stand in sport of AM706 if you bring it out farther and as long as Douglas County is saying, yes, that they can afford to look at it in a few years out, but to ask

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somebody to put a million dollar budget, you know, is very taxing on them for sure. Now, I did scroll down--

SCHEER: One minute.

ALBRECHT: --in this fiscal note to look at what it does cost these counties. Let's see if it's in here. So the actual cost when it comes to the sheriff's department and staffing extra officers to go into those courtrooms, I show a total of 1.226 million, and that would be in 2020 and 2021, correct? I'm sorry, Senator Lathrop.

LATHROP: Oh, I would have a certain amount of disagreement. I have my light on. I don't want to chew up all your time, but that fiscal note from Douglas County is ridiculous, and I'll explain why it is.

ALBRECHT: Okay. Yeah, then I would like to learn more about that, so I will listen to the debate on the floor this morning, but I would stand in favor of AM706, is what I should say.

SCHEER: Time, Senator.

ALBRECHT: Okay, thank you.

SCHEER: Thank you, Senator Albrecht and Senator Lathrop. (Visitors introduced.) Return to the floor discussion. Senator Dorn, you're recognized.

DORN: Thank you, Speaker. Senator Lathrop, would you yield to a question?

SCHEER: Senator Lathrop, would you please yield?

LATHROP: Yes, I'd be happy to.

DORN: For me, this is-- I have some basically clarification questions. Your amendment here, in our next budget here, does not incur any costs.

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LATHROP: Yeah, this bill will not have a fiscal impact on this biennium.

DORN: But if we approve the judge, then in the next biennium budget, that will be the approximate cost to the state?

LATHROP: Approximately.

DORN: Approximately. So we-- I mean, I'm trying to look at it from this perspective. We are still approving a fiscal note. I'm in favor of the LB309. I'm in favor of the judge, but I just want people to be aware of the fact that we just are not approving the fiscal costs in this year, and I, by reading your fiscal note there and Senator Albrecht brought up some questions, and I appreciate you looking and answering those of the county's fiscal note and all of that and some of the costs that are going to occur, but this amendment then we are basically putting that cost in a future budget. It won't, if we approve a judge, and we approve the fiscal note, then we are also approving it for future budgets, though.

LATHROP: That's true.

DORN: Thank you. And I'll yield the rest of my time to Senator Lathrop.

LATHROP: Oh, go ahead.

SCHEER: Senator Lathrop, 3:18.

LATHROP: Thank you, Senator Dorn, and Mr. Speaker. Let me, first of all, thank Senator Albrecht for being attentive through the La Grone amendment and getting that that was not a serious-- maybe a serious subject matter, maybe something we ought to talk about in great detail on this floor, and I'm ready for that conversation. Let me talk about the fiscal note that came from Douglas County since that was a question that was asked by Senator Albrecht. So they go to Douglas County, who didn't show up at the hearing, came in on General File neutral, and when this moved to Select File, they came up with a fiscal note that's in the gadget and you've seen. So what they did in Douglas County, remember, adding a judge doesn't increase your

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caseload. What adding a judge does is it allows more judges to work on the same caseload, but they went to, for example, a public defender, or they said they did, and the public defender needed three more people. Well, he writes a letter and said, I didn't say that. I need three more people, because I got more cases. We're getting more criminal cases that we're getting appointed to so I need more lawyers in my office. It doesn't have anything to do with adding a district court judge, but it showed up in Douglas County's fiscal note. If you've been following the saga of trying to build and agree on an annex to the courthouse in Douglas County, you will see that you have county board members that are split, you have a building commission that's split, and they are in gridlock up there. And so they're adding things into the fiscal note, adding a district court judge, they want three more sheriffs. It's right in the fiscal note. So that doesn't make any sense. So what we have is a fiscal note coming from Douglas County, not our own fiscal office, by the way that was critical of Douglas County's fiscal note, where they said we need three new sheriffs, and it's like, let's see, you have more than enough right now, and you want to add three more? It's like they're using this bill as an opportunity to try to increase--

SCHEER: One minute.

LATHROP: --increase the resources that they all need, because, like us, they're experiencing a revenue crunch, and they're trying to make more go further, or less go further, and, of course, they'd like more money from the state. And so their fiscal note, some of it is credible, an awful lot of it isn't. And, by the way, this is the relationship the state has had with counties forever. The counties build the courthouse, the counties build the courtrooms, the counties provide the security. They provide the bailiffs, and the state provides the judges. So, again, Senator Albrecht, thank you for opposing the last amendment, supporting AM706 and LB309. Thank you.

SCHEER: Thank you, Senator Albrecht and Senator Lathrop. Senator Arch, you're recognized.

ARCH: Thank you. I have a question for Senator Lathrop, if he'd be willing.

SCHEER: Senator Lathrop, would you please yield again?

LATHROP: I'd be happy to.

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ARCH: Could you please help educate me on this type of language where we have an amendment that is two years out, so it's not in this budget. What exactly can we obligate to a future budget? How does that work?

LATHROP: I think we do it from time to time, or it's not uncommon, where something will have an effective date beyond the current biennium. It may have some fiscal note. Honestly, I'm not doing this because of the fiscal note, because I believe when it comes to having proper number of judges in the counties, that that ought to be done regardless of the fiscal impact. So it's not me trying to push it out there so I run into a fiscal note issue, but it's about Douglas County's ability to accommodate a new judge.

ARCH: So it's not that we are obligating a future budget to a particular number. If in the future the Appropriations Committee decides not to fund this, what is their obligation or what is that next biennium, what is their obligation to fund something like this?

LATHROP: I think it will show up as-- within the Supreme Court's budget. All the district court judges are part of the Supreme Court budget, and the Supreme Court budget will be greater by a district court judge expense.

ARCH: So it would be by that particular judge's expense, but not, of course, as we've talked at length about the associated costs of the county that would, of course, be their responsibility with the amendment failing, and so it would just be that judge, whatever that particular year cost would be.

LATHROP: That's true. As far as I know. Never served on Appropriations Committee, but that's my understanding.

ARCH: Thank you.

SCHEER: Thank you, Senator Arch and Senator Lathrop. Senator Lowe, you're recognized. Senator Wayne, you're recognized. Oh, I'm sorry, I thought he was waiving off. Senator Lowe. Anytime.

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LOWE: Thank you, Mr. President. I appreciate you allowing me that little extra running time. You know, our counties and our cities are kind of tight with money right now, and it's because of what we've levied down on them. We've pushed our expenses down to them, and so I can appreciate Senator Lathrop doing this and Senator La Grone for bringing his last amendment, even though it was meant to be more of just talking points. It's something we seriously need to discuss. Our counties and our cities are being pushed to the brim. And as far as adding another judge to Omaha, yeah, I'm sure they probably need it, they just don't have the facilities at this time. If Senator Lathrop would yield to a question?

SCHEER: Senator Lathrop, would you please yield?

LATHROP: Yes, I will.

LOWE: Thank you, Senator Lathrop. Do you think 2021 will give Omaha enough time to build the building that they need to build?

LATHROP: So, it should. And if it doesn't, then they can go into the courthouse and develop some space. But I think two years out should be sufficient for them. Honestly, they need four. If they're going to build an annex, they better prepare for even more district court judges, because the caseloads up there are off the chart right now. And then we have the judges doing problem solving courts. We have them doing all kinds of responsibilities that even by an independent board, the Judicial Resource Commission shows that we're four short. And that has a real effect, like when you call to get a hearing on a motion, you can wait two months to have somebody answer a simple-- very simple motion instead of having it brought up the next week or within ten days.

LOWE: You know, building on to our buildings is tough. It's very expensive, very cost prohibitive most of the times. And I'm sure that Douglas County does need a larger building, especially if they need four judges. Senator Erdman brought up a traveling judge, and Senator Lathrop said how expensive it was for travel, but travel may be cheaper than a new building. I think we also need to look at the judges that we have, that are in our counties that aren't so busy, and where they're, I believe he said 2.7 amount of overage. So maybe a traveling judge could

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come in and spend a week and then another traveling judge can fill up some of that time to give some relief in the meantime. I think we need to take a look at that. Thank you, Mr. Speaker.

SCHEER: Thank you, Senator Lowe and Senator Lathrop. Senator Wayne, you're recognized.

WAYNE: Thank you. Good morning, colleagues. As you can tell, I'm still getting over my cold a little bit, but I just want everybody to take a second and let me give you a practical bill. Besides Senator Lathrop, I think I'm the only other practicing attorney in Douglas County. And so yesterday my staff, my paralegal, called to get two temporary orders with two different judges for divorce cases. What a temporary order is, is temporary custody while the proceeding is going and before we get to a trial, which is over a year, maybe year and a half away, we want to establish some temporary custody. Temporary custody hearings last no more than ten to 15 minutes. It's an affidavit-driven proceeding. That means both sides fill out affidavits, have other witnesses fill out affidavits, we submit it to the judge five days before to give him an opportunity to review it, and then we go in and we just talk for ten minutes and the judge makes a ruling. It's not even a formal hearing on the record, unless a party demands it, which I typically have never seen in a temporary hearing, unless one of the parties are pro se. Well, we called yesterday for a temporary hearing. I am now booking at May 27th and June 1st. So I'm calling those judges today over the lunch hour, calling their bailiffs to try to find 15 minutes and beg them to get in for 15 minutes, otherwise we don't have a custody arrangement for over two or three months. Now let's go to the criminal side. We talk a lot about costs. I had an individual who needed to be sentenced. We could not get back into sentencing, and sentencing lasts 15 minutes. If there's victims there, it could last a half hour. It took me three months after his PSI, which is a post inspection of where they go through and figure out what the sentence should be and give the judge a lot of information, we couldn't get in for three months. So that is three months of an individual sitting in county jail and that county bearing the cost per day for that individual. Now I'm just one attorney and one client, but when I talk to other attorneys and I talk to other clients who are dealing with the same issue, getting into court is almost impossible in a timely fashion. That is why it's critical that we have an additional judge. As it relates to space, our first-year colleagues who were in my class, we approved a new juvenile judge, and we didn't have space on the sixth floor. What we did is we opened up a conference room and we turned that into a makeshift courtroom, and what that allowed was to take our six-month review that has to happen

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statutorily within six months, that are happening right about six months, seven months, by adding that new judge we were able to cut that down to about four months. So I'm not worried about space. There's courtrooms available that if we have to, such as on the third floor, 331, 332, which are used for probate, which isn't necessarily every day, we could make it work while we wait for a facility to be built. But I want you to understand, the costs are there. You have people sitting in jail who can't get into their judge, and the costs are also borne by the people I represent who can't get in just to have a simple ten minute affidavit-driven hearing. Not everybody else has these problems. We have over 15,000 cases in district court, and the numbers don't go down, as we've seen with our prison population, our numbers are going up. There are more and more Class 4 felonies that are happening. If we want to solve this problem, we can have a criminal debate about how to change our criminal laws, but the fact of the matter is, we have a lot of people who are sitting in jail and then get out on probation for the next three years on a Class 4 felony. They sat in and did 90 days and get time credit waiting for a judge.

SCHEER: One minute.

WAYNE: That is a cost that is borne by the county. So the costs are there. What we're trying to do is speed and expedite the process that before you can get in front of a judge, which will save the counties ultimately money. That's why this is so important. And this is a real life experience that just happened to me on Monday, and I had two families who luckily they're amicable who won't have a custody determination until damn near June. So there goes a holiday that I got to figure out with another attorney on who is going to spend it out because we couldn't get in front of a judge to make that decision. And as anybody who does any custody battles, that's a serious problem. We have to be able to get in front of our judges in a timely matter and that's why this is needed. Thank you, Mr. President.

SCHEER: Thank you, Senator Wayne. Mr. Clerk.

ASSISTANT CLERK: Mr. President, an announcement that the Urban Affairs Committee will hold an Executive Session at 10:00 in Room 2022.

SCHEER: Thank you. Senator Lowe, you're recognized.

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LOWE: Thank you, Mr. President. Senator Wayne, would you yield to a question?

SCHEER: Senator Wayne, would you please yield?

WAYNE: Yes, I'll see you in the executive here in a short little bit. [LAUGHTER]

LOWE: I will make this quick. Senator Wayne, you brought up that you are extremely short of judges right now and there may be some room that you could squeeze more hearings into.

WAYNE: Correct.

LOWE: Why then do you think we're only asking for one judge at this time and not the four that is needed?

WAYNE: I didn't sponsor this bill, but my understanding of it is simply because, one, there's a space issue of actually getting what we need as four new judges, but then we have the reality of a fiscal note. So I think it was Senator Lathrop, I'm not going to speak for him, a compromise in his head of how to solve some of the problem.

LOWE: All right. Thank you, Senator Wayne. Senator Lathrop, I'll ask you the same question then of, you're asking for one judge for Douglas County.

SCHEER: Senator Lathrop, would you please yield?

LATHROP: Yes.

LOWE: Thank you. You're asking for one judge. Instead, Senator-- or you brought up that you need four judges to make the courts whole. Why not ask for two judges or three judges?

LATHROP: You know, that's a great question, and I think Senator Wayne answered it exactly as I would have. It's a practical consideration, A, space, and, B, how much, like if you ask for four,

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then you may end up with none. If you ask for one, then you expect to get one, and not overreach, but it is an acute problem in Douglas County.

LOWE: Well, it sounds like it, and thank you, Mr. President. Thank you.

SCHEER: Thank you, Senator Lowe, Wayne, and Lathrop. Seeing no others in the queue, Senator Lathrop, you're welcome to close on AM706.

LATHROP: Thank you, Mr. President, and colleagues. Once again, I would encourage your support of AM706. Let me just say that we've had a good discussion this morning. I would submit that it's not just courts that we could have this discussion. A similar discussion could happen with respect to mental health, which has many, many unfunded mandates down to the counties. We could have the same conversation when it comes to K-12 education. When we do not properly fund K-12 education, it is an unfunded mandate down to the school districts. I'm happy to have that as we go along. I think it's a worthy conversation to have on the floor of the Legislature. At this time, however, this is about adding a district court judge in Douglas County that is badly needed. I would ask for your support of AM706. Thank you.

SCHEER: Thank you, Senator Lathrop. The question before the body is adoption of AM706. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

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

SCHEER: AM706 is adopted. Returning to the queue, there's no one wishing to speak. Senator Lathrop, you're welcome to close on LB309. Senator Lathrop waives closing. The question before us is the-- Senator Slama for a motion, please.

SLAMA: Apologies. Mr. President, I move to advance LB309 to E&R for engrossing.

SCHEER: Colleagues, you've heard the motion. All those in favor please say aye. Any opposed say nay. LB309 is advanced. Mr. Clerk, we'll now proceed to LB400, or we could go to LB309A.

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ASSISTANT CLERK: Mr. President, with LB309A, no E&R amendments.

SCHEER: Senator Lathrop, you're recognized.

LATHROP: I'd move to take LB309 off the agenda, or pull LB309 by unanimous consent.

SCHEER: Senator Lathrop, could you approach, please? Mr. Clerk for a motion.

ASSISTANT CLERK: Mr. President, Senator Lathrop would move to indefinitely postpone LB309A.

SCHEER: Senator Lathrop, you're welcome to open.

LATHROP: Thank you, Mr. President, and colleagues. I don't know if there was something I forgot about my previous experience or if I just learned something new today, but in order for us because we've just moved LB309 effectively into the next biennium, I need to do an IPP on LB309A to dispose of it. So the motion that I'll ask you to support is to IPP LB309A and that's MO23. With your kindly indulgence, please support the motion to indefinitely postpone LB309A. Thank you.

SCHEER: Thank you, Senator Lathrop. Seeing no one wishing to speak, Senator Lathrop you're welcome to close. He waives closing. The question before us is MO23 to indefinitely postpone LB309A. All those in favor please vote aye; all opposed vote nay. Have all voted that wish to? Please record.

ASSISTANT CLERK: 32 ayes, 0 nays on the motion to indefinitely postpone.

SCHEER: LB309A is IPPed. Items?

ASSISTANT CLERK: Thank you, Mr. President. Your Committee on Nebraska Retirement Systems reports LB34 to General File with amendments. Enrollment and Review reports LB399 as placed on Final Reading. Have notice of committee hearing from the Education Committee.

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And finally, a new resolution, LR41 from Senator Briese, congratulating the Plainview High School wrestling team on its state wrestling championship. That will be laid over. Additional notice of committee hearing from the Revenue Committee. That's all I have at this time.

SCHEER: Thank you, Mr. Clerk. (Visitors introduced.) Mr. Clerk, LB590.

ASSISTANT CLERK: Mr. President, LB590 introduced by Senator Briese. (Read title.) This bill was introduced on January 23, referred to the Health and Human Services Committee. That committee placed the bill on General File with committee amendments attached.

SCHEER: Thank you, Mr. Clerk. Senator Briese, you're welcome to open on LB590.

BRIESE: Thank you, Mr. President. Good morning, colleagues. I rise today to present my LB590. LB590 was brought to me by several folks with an interest in childcare, and we've worked closely with the Department of Health and Human Services and the Governor's Office along the way. I would note that both the departments involved here, Department of Education, the Department of Health and Human Services, testified in favor of this bill at the hearing, and there was no opposition testimony. I would describe this as a simple bill, which will allow small businesses or childcare providers the option to see some streamlined services from government. Currently, Department of Health and Human Services conducts annual in-person visits to our licensed daycare providers to verify training records and other documentation. LB590 would integrate the Nebraska Early Childhood Professional Records System, or NECPRS, into the annual verification of training and education requirements for licensed childcare staff. That system is already in existence and operated by the Department of Education. By opting into this streamlined system, people who are already busy enough caring for our children can save valuable time on in-person visits solely for the purposes of paperwork and can give them the opportunity to move their businesses towards being paperless, if that's what they choose. And it streamlines the system from DHHS. Currently DHHS makes annual visits on site to verify these credentials. This will streamline the process for the department or for DHHS also. This change allows DHHS to use the on-line database for those providers who choose to use it, making the process more efficient for everybody. The green copy of the bill would have required the use of the on-line database by our licensed providers. Feeling this was too onerous on our small

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businesses in this industry, we removed that requirement with the committee amendment. I'm sure Senator Howard will speak to the committee amendment, but I believe all it does is remove the requirement from childcare providers and make this system an entirely optional choice, which was a request I made of the committee at the hearing. I would also point out there's no fiscal note on the bill. Thank you, and I'd ask for your green vote on the amendment, as well as the underlying bill. Thank you, Mr. President.

SCHEER: Thank you, Senator Briese. As the Clerk mentioned, there's committee amendments. As Chair of Health and Human Services, Senator Howard, you're welcome to open.

HOWARD: Thank you, Mr. President. AM330 to LB590 replaces the green copy and becomes the bill. It amends statutes 43-2606 to require that DHHS use the Nebraska Early Childhood Professional Records System, or NECPRS, to document training levels of staff and verify minimum training requirements of employees for any childcare program that is already reporting in the NECPRS. In short, the amendment maintains the voluntary use of NECPRS for childcare centers and instructs the Department of Health and Human Services to use the same method of reporting and verifying that is used by the childcare center. So simply, if a childcare center wants to go paperless and be on-line, they can, and then the department must respond to them using that same system. If a childcare center prefers to use-- report employee education using paper, the department will subsequently respond in kind. This amendment was reported-- was voted unanimously by the committee, and I would urge it's adoption on the floor. Thank you, Mr. President.

SCHEER: Thank you, Senator Howard. Going into discussion, Senator Albrecht, you're recognized.

ALBRECHT: Thank you, Speaker Scheer. Senator Briese, would you yield to a question?

SCHEER: Senator Briese, would you please yield?

BRIESE: Yes, I would.

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ALBRECHT: Okay, can you help me understand-- thank you. On page 3, line 27 through-- actually page 4, line 1, so Senator Howard just referred to them as centers. Are we talking about in-home day cares, as well?

BRIESE: We're talking about our licensed day-care providers. I believe state statute requires any day-care provider with over three children, I believe, to be licensed, and the department makes visits to those providers that are licensed.

ALBRECHT: And if-- and it is voluntary, I understand, correct?

BRIESE: Yes. The green copy made it mandatory, and we felt that would be too burdensome on those providers that chose not to do that. It's my understanding that a lot of providers are signing up with this program, as we speak, to utilize the on-line database.

ALBRECHT: Okay. So on-line-- thank you. On line 27, beginning January 1 of 2020, a program as defined in Section 71-1910 shall maintain a provider profile in the Nebraska Early Childhood Professional Records System and each employee of such program shall report his or her educational degrees and professional credentials, and relevant training completed, and work history to the Nebraska Early Childhood Professional Records System. So is there a pass or fail on this?

BRIESE: No, and let's be clear here, the amendment replaces the green copy. So what you read from there is the green copy.

ALBRECHT: Okay, so then let's just go to that. Do you have it right there? So that truly is my question, that, okay, so if I-- so this section that we just talked about, so beginning January 1, the programs that report to the Early Childhood Professional Records Systems created under this section the department shall use early childhood records again, documents, training level, staff and specific childcare settings to assist parents. So are you-- is this bill wanting to train those who have not entered this system, and will any of those who do not engage in this training be asked to shut their centers down? What's the point?

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BRIESE: Well, we statutorily require orientation of training, orientation and training of our providers. I think that's in 43-2606 and we require DHHS to initiate a system of documenting the training levels and either by statute or regulation, they currently do annual on-site visits to verify that training. And this simply takes away the need for those on-site visits as per those individuals that choose to use the on-line platform.

ALBRECHT: But if they should not choose to do this, would they be penalized in any way in the near future because they haven't engaged in this?

BRIESE: That's a great question and I don't believe they would. They'd simply still be subject to the on-site visits like they have been in the past.

ALBRECHT: And who brought the amendment to this?

BRIESE: Who brought the amendment?

ALBRECHT: Because you said you didn't have any opposition, right?

BRIESE: Right, didn't have any opposition. Actually, the Department or PRO pointed out how burdensome that could be on our providers, and, yes, we thought, too, that that would be onerous for some of the providers that didn't want to utilize the on-line platform.

ALBRECHT: Thank you.

BRIESE: You bet. Thank you.

SCHEER: Thank you, Senator Albrecht and Senator Briese. Seeing no one wishing to speak, Senator Howard, you're welcome to close on AM330. She waives closing. The question before us is the adoption of AM330 to LB590. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

ASSISTANT CLERK: 34 ayes, 0 nays on the adoption of committee amendments.

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SCHEER: AM330 is adopted. Returning to discussion. Seeing no one wishing to speak, Senator Briese, you're welcome to close on LB590.

BRIESE: Thank you, Mr. President. This bill, as amended, is simply about making life easier for small businesses. It's about streamlining the process. And, again, the amendment makes it optional for our providers. And the fiscal note doesn't indicate any cost savings accruing to the department, but I would think that over time some savings would accrue to the state because of replacing the in-home visits with the utilization of this on-line database. It's a good amendment, it's a good bill. I'd ask for your support. Thank you.

SCHEER: Thank you, Senator Briese. The question for us is adoption of LB590. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

ASSISTANT CLERK: 38 ayes, 0 nays on the advancement of the bill.

SCHEER: LB590 does advance. Next item, Mr. Clerk.

ASSISTANT CLERK: Mr. President, LB400 introduced by Senator Hunt and others. (Read title.) The bill was introduced on January 17 of this year, referred to the Business and Labor Committee. That committee placed the bill on General File with no committee amendments.

SCHEER: Thank you, Mr. Clerk. Senator Hunt, you're welcome to open on LB400.

HUNT: Thank you very much, Mr. Speaker, and good afternoon, colleagues. Today, I'm presenting LB400, a bill to increase the subminimum wage, or tipped wage, for Nebraskan workers for the first time in 28 years. The new wage would take effect on January 1, 2020, and would initially increase the wage to 3.60 per hour and then to 4.50 per hour on January 1, 2021. Additionally, LB400 would index the tipped wage at 50 percent of the state's standard minimum wage. I've distributed some handouts that I hope all of you still have, but I wanted to discuss these, and I hope people didn't just discard them without giving them a glance because I tried to put some very digestible bullet points on here, understanding that we have a lot competing for our focus. But it's important that we understand how this issue impacts everyday Nebraskans.

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The gist of this whole thing is, if you get nothing else out of my argument, the tipped minimum wage is 2.13 an hour, Nebraska's standard minimum wage is \$9 an hour and since this last increase to the tipped minimum wage in 1991, our standard minimum wage has increased seven times. We're going to hear from opponents to my bill that all Nebraska restaurants, or restaurant and bar employees are \$9 an hour or more. That's the header on this handout that was distributed by Senator Halloran. It's true that we have labor laws requiring employers to supplement wages up to the state minimum wage. I know that law, tipped workers know that law, everybody who's worked in a restaurant knows that law. However, noncompliance with these provisions are rampant. Sweeps done by the Department of Labor in 2012 show that 84 percent of restaurants were noncompliant with these provisions, and we heard extensive testimony to that effect in the committee hearing. We also heard about employees being afraid to report labor violations for fear of retaliation. And when employees do muster up the courage to report wage theft or other abuses, they find that the response is underwhelming because Nebraska doesn't have the proper investigatory mechanisms or human power in place to ensure that these labor laws are actually enforced. Our Labor Department only has seven employees that perform these investigations, but there are 1,033,800 total employees in Nebraska. That's 147,700 employees per investigator, so it's not reasonable to say that all tipped workers get \$9 an hour because the Department of Labor would struggle to investigate all these instances if all of them were reported. So I'm telling you, colleagues, the most cost effective way for us as a body, for us as lawmakers to address this noncompliance, is to raise the wage to 4.50. I understand that it's the prerogative of the Nebraska Restaurant Association to do everything they can to avoid raising wages for tipped workers for the first time in 28 years, because part of their job as lobbyists is to keep the costs for restaurant owners as low as possible. I've seen them in the lobby talking to many of you, but we are lawmakers who represent not only restaurant owners, but the workers who earn these wages. And we can look to Iowa, we can look to South Dakota, Missouri, Colorado, to all of our neighboring states that have a higher tipped minimum wage than us and say, is it really wrong for us to choose as a body to give these people a raise for the first time since 1991? And, colleagues, this isn't asking to bring the subminimum wage up to \$9 an hour, which many states do have. It's not even \$8 an hour. I'm asking us to decide as a body to take the wage these people are working from \$2.13 an hour to \$4.50 an hour to help them pay their taxes, to reduce their dependence on Medicare and Medicaid and SNAP and other government benefits, to help Nebraskans achieve the upward mobility that has been lost to so many because of our changing

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economy in the last 28 years. The creation of the two-tiered wage system in 1966-- this is a little history. It fundamentally changed the practice of tipping, as well, and I expect that we're going to talk a little bit about tipping today. This change shifted the responsibility of compensating servers from business owners to customers, but today in reality, that responsibility has continued to shift, moving from patrons and business owners to taxpayers. Restaurant servers, the group that stands to benefit the most from this legislation, are three times more likely to live in poverty than the general work force and two times more likely to be on SNAP or Medicaid. So the reality is, colleagues, the responsibility to support these workers has shifted to us, the taxpayers, when really it should be on the business owners. I guess that restaurant owners don't want to volunteer to raise their wages and I believe that all of us support small businesses. I'm a small business owner myself, but the truth is that we are all paying for these low wages already as a state. It's been 28 years. Every year that we let pass without raising the subminimum wage passes more responsibility to taxpayers to support the people who work for these wages. So how many years are we going to let the balance pile up? How many years until we finally decide as a state to raise this wage? This bill comes up every year. It's been passed down throughout the generation. Senator Nordquist initially brought this, Senator Matt Hansen brought this, and he passed it down to me to bring this year. So I want to bring my colleagues' attention to one difference in my bill from bills in the past. My bill would raise pay to 40 percent of the Nebraska minimum wage of \$9 an hour after January 1, 2020, and before January 1, 2021, 50 percent of the minimum wage rate for wages paid on or after January 1, 2021. So restaurant owners under this bill will have until 2021 to be in compliance. We're going to bring this in slowly so that we can see the effects of this legislation so we can make sure that we're addressing any problems that there are. Since the tipped minimum wage was last increased in 1991, before some of you were born, Nebraska has increased the standard minimum wage seven times. So what I want to know is, why do we think that all workers in Nebraska deserve a raise except these workers, but tipped workers don't? The stagnation of the federal subminimum wage has left the decision to raise tipped wages up to the states and Nebraska has fallen significantly behind our neighboring states in the rest of the country. Iowa currently pays tipped employees 4.35 an hour, Colorado 8.08, South Dakota, 4.55, Missouri 4.30. I passed out a handout that shows how far Nebraska is below our neighboring states in the minimum wage. So if we don't develop a culture of support for our tipped workers here in Nebraska, these people are often mothers, they're often students, we're going to continue to see an outward migration of workers to neighboring states. As anyone who's

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ever been a service worker knows, income based on tipped work is volatile because not all residents have the type of clientele that tips well. Not all restaurants consistently have a lot of business. And even with great customer service, tips aren't always guaranteed. A server can give the same great service to five different tables and maybe one table tips 20 percent, maybe one table tips nothing, maybe the other two tables tip 15, and then often that worker has to pool their wages and share those tips with everybody and then they have to pay taxes on those wages. And in committee we heard extensive testimony from people who worked for tipped wages that at the end of the year they often don't even have enough income to pay their taxes. If we want to give the workers making 2.13 an hour in a small diner in western Nebraska, for example, some peace of mind, we need to provide them some consistency with weekly pay. It's time to give tipped workers a raise to promote the general welfare of all Nebraskans. I also want to thank the 17 other senators who signed on as cosponsors of this bill, because it was really important to me to bring this bill with bipartisan support to tell our tipped workers in Nebraska that we value their work, that we believe their work is important, and that they deserve a raise. Workers at the standard minimum wage have gotten seven raises since 1991, but since that year the wage for tipped workers has stayed the same. So basically, this bill is essential to reducing poverty among our working people and allowing employees to achieve the upward mobility that has been lost to so many people with the changing economy. And with that, I'll close on my opening. Thank you very much.

HILGERS: Thank you, Senator Hunt. Debate is now open on LB400. Senator Erdman, you are now recognized.

ERDMAN: Thank you, Mr. Speaker, and good morning, again. Senator Hunt, I wondered if you would answer a few questions for me?

HILGERS: Senator Hunt, would you yield to a question?

HUNT: I will.

ERDMAN: Thank you. Senator, in your opening comments you made mention of how many tipped workers we have. Can you refresh my memory on what that was? I didn't get it noted.

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HUNT: Did you ask me how many tipped workers we have in Nebraska?

ERDMAN: Did you say that in your opening statements?

HUNT: I said how many workers total we have in Nebraska and I mentioned the total workers because the Department of Labor is responsible for investigating complaints of wage theft, labor law violations for all workers, not just tipped workers.

ERDMAN: Okay. So in your comments you said that the Department of Labor doesn't have enough employees to investigate all instances of maybe not being paid adequately. Would that be a fair assumption of what you said?

HUNT: I think that's true. We also have evidence that tipped workers don't make complaints at a very high rate because they're more likely to experience retaliation.

ERDMAN: Wouldn't it make sense if you think that's the problem that we don't have enough investigators that your bill would have included something to do with more investigators to review what is actually happening?

HUNT: Well, that would have put a wicked fiscal note on it and that's not what I'm trying to do in here. I think that the lowest cost way for us to solve this problem is to just increase the minimum wage a little bit. That will take more burden off taxpayers, it won't put a fiscal note on it, and it will help these people just get off government benefits and pay their taxes.

ERDMAN: So, right now every worker that works for tips has to be paid \$9 an hour, is that correct?

HUNT: That's the law, yes.

ERDMAN: Okay. So how are you giving someone a raise by raising what the restaurant has to pay?

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HUNT: That's a great point. If the restaurant is already paying people up to \$9 an hour like they are supposed to, this won't really affect them if a worker's wages-- or if a worker's tips doesn't get them up to \$9 an hour.

ERDMAN: Okay. So the information that I've received from some of the restaurant people have showed me that-- they showed me their spreadsheets on wages and tips received and when a tip is paid through the credit card receipt, it's around 22 percent. The tips average about 22 percent when paid on the credit card. And when a tip is paid in cash, it's around 4 percent. Okay. The point is, the tip is the same whether they pay in cash or with a credit card, but what's happening is those people who are collecting the tips, those servers, only turn in 4 percent when it comes in in cash. So there's another 18 percent that they're receiving in cash that they're not declaring on their taxes. And so to say that these tip employees are getting compensated less than they should is probably not a fair assumption because I have a document that shows a restaurant here in Lincoln that has six establishments, and the year that he showed me his information, the average was 22 percent on, paid by credit card and 4 percent paid by cash. And I will just share with you a story. Up until 10, 12 years ago, maybe less than that, when I would eat out at the restaurant, I would leave a 10 percent tip. And one of my sons would always increase that until we got to about 20 percent. So I took his lead and one day I left a tip that was greater than the bill, and he said, I'm finally proud of you, you finally done something decent. And so the point is, I leave more than a 10 percent tip now, and so I think that's the way most people do. I don't believe that if we increase the minimum wage to four whatever, 4.15 or whatever you're recommending here is going to be beneficial to the tip receiver because the restaurants function on such a small margin that if they have to continue to pay more wages, they're going to have to find a way to fund that and that will be by raising--

HILGERS: One minute.

ERDMAN: Thank you, sir. --that will be by raising their price. And so this is not a good bill. I'm not in support of LB400. I think they're already getting fairly compensated. Good service should be compensated with a good tip. And so, I'm not at all in favor of LB400. Thank you.

HILGERS: Thank you, Senator Erdman and Senator Hunt. Senator Morfeld, you're recognized.

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MORFELD: Thank you, Mr. President. Colleagues, I rise in support of LB400 and I want to address just a few different things. First, if you look at the department, the United States Department of Labor, Wage and Hour Division website on tipped minimum wages, you'll find that Nebraska's, actually it appears in the minority of states, and I think Senator Hunt may have mentioned this in her opening, but in the minority of states that just use the baseline federal minimum wage. States such as Iowa, Missouri, Colorado, South Dakota, they all have higher than the federal minimum wage for tipped workers and in addition you have several other states around us that actually-- well not around us, but nearby that do the minimum wage for tipped minimum wage workers. I'll tell you that I've been to all these states and their economies are doing well. My bill in the restaurant wasn't much higher, and I think that this kind of, you know, the sky will fall, businesses will close, all those types of things, because we start paying people a little bit more money is really just kind of a red herring and the bottom line is, is that when you pay people more, they have more money to spend at other restaurants. They have more money to put into the economy, and you have less people that really need government programs like Medicaid and food stamps and some of those other things, which then decreases the demand for those programs, which allows us to do other things like property tax relief and some of these other business incentive programs that everybody is running around talking about. So I think that this is a good direct business incentive program for-- that goes directly to employees and I think that we need to keep in mind that we need to provide these types of benefits that go directly to employees just as we provide benefits and subsidies to employers. And with that being said, I will yield the remainder of my time to Senator Hunt to address some other issues and concerns. Thank you.

HILGERS: Thank you, Senator Morfeld. Senator Hunt, 2:58.

HUNT: Thank you, Senator Morfeld. I think it's a fair point to say that some workers misrepresent what they earn in tips. It's also very fair to say, and it's very problematic to me that we have a lot of evidence that business owners are committing acts of wage theft in not giving their workers the tips that they deserve and that they've earned. We heard examples of testimony of this in the committee hearing and I think that one way to address that is just to raise the wage that these people are making. When you can't pay your taxes, that's an incentive to misrepresent how much you're earning because you know that you're going to be responsible for that when

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Uncle Sam comes to collect. One example of testimony received. I've been in the restaurant hospitality industry since I was 16. Crazy to say it's been 18 years. I've paid thousands of dollars every year to taxes since my very minimal 2.13 doesn't cover very much. For example, my W-2 this past year said I made \$36,000 but only 400 got taken out for federal taxes. I can never get caught up, so every year I'm on a payment plan to the IRS. As a new business owner in this industry, and this is great, this is somebody who's going to start a new business, create jobs, who has worked her way up, who saved, and now she's an entrepreneur getting ready to hire this summer. I've built into my business plan and financial projections to pay my bar staff much higher than the subminimum wage. From my experience, I would never accept the norm and do that to my employees. It baffles me that this is still acceptable. I would 100 percent support raising the subminimum wage and hope it will continue rising past for 15 years to come. I say let's wait 28 more years until we have this conversation again. Let's just get it up to 4.50 and help these people. She goes on-- especially for millennials and younger professionals who are renting in Omaha, it's not as cheap as it used to be. The cost of living continues to rise, I have student loans and a subminimum wage needs to reflect that. I think that perfectly says the issue, cost of living is going up--

HILGERS: One minute.

HUNT: --people's expenses are going up and folks just aren't making enough money to cover that. We can also talk about, well, I always tip well. When I was talking to many of my colleagues on the floor trying to gather votes in support for this bill, some of the opposition I heard to it was, I don't think this is an issue because I always tip well. I always tip at least 20 percent, so, you know, how much sense does that make? It's great that we all tip well, we should tip well, but that's just not reality for most servers. And when they can't pay their taxes, when they're on payment plans with the IRS, when they're benefiting from government-funded programs that we could get them off of if we just increased the minimum wage here today, I think that would go a long way to addressing that. Thank you, Mr. President.

HILGERS: Thank you, Senator Hunt. Senator Matt Hansen.

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M. HANSEN: Thank you, Mr. President. Good morning, colleagues. Colleagues, I rise in support of LB400 and as a cosponsor and thank Senator Hunt for carrying this important issue this session. As many of you might remember, this was my priority bill back when it was Senator Nordquist's bill, my very first term here four years ago now. And I just kind of want to get to the base argument of the tipped minimum wage. So the history in this and Senator Hunt did a good job of covering this in the opening, but I just really want to reiterate it, was the tipped minimum wage for a long time was 50 percent of the minimum wage through some time in the '60s through 1991 when they were separated. And that is why our tipped minimum wage is actually an odd number at 2.13 an hour, is the minimum wage for everybody else when it was separated was 4.25, thus you had the half, plus roundup half a cent. And since then we have continued to increase our minimum wage for everyone else in the state of Nebraska. In fact, it's more than doubled. It's gone from 4.25 to \$9. But our minimum wage for people, for tipped workers, people compensated by way of gratuities, has not changed. And so I understand that the proportions have changed and those numbers change and change over time, and maybe they're still at a balance point where people in this body feel comfortable with. But we're going to have to be faced with the reality is that as a way of history we know our minimum wage for all employees is going to continue over time. And at a certain point our tipped minimum wage is not going to cut it, is not going to be high enough. I, personally, think we've already crossed that point. I think we crossed that point some time recently. For others, even if you don't think we've hit it now, I hope you'll recognize that we will hit it at some point. And so we have an opportunity here with LB400 to pick where we want to set it at. I think tying it to the regular minimum wage, indexing it to the regular minimum wage, set it at a specific proportion of the regular minimum wage makes sense. And as LB400 is written, it is written to present it as 50 percent of the minimum wage, which it was through the 1960s, '70s, '80s, and into 1991. I'll be curious to listen to the rest of the debate because I think we often hear a kind of multitude of stories of the industry, and I do want to remind people, for the large part, I do think it's accurate to think that waiters, waitresses, bartenders, food service, are probably the bulk of tipped workers that would benefit from this bill. I will point out that as you look at the section, this encompasses all employees who work by tips and specifically references some other categories, so they would be impacted, as well, and in a way that you might not immediately think of them in a tipped employee context. So I just want to take that step back, but as we talk about it, we're going to hear some stories. I know there are always some stories of waiters and waitresses and

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very, you know, high-end steakhouses that make a very good living and are tipped very well, but then we also see that the industry standard, the industry average, is very low. And so just knowing the law of averages, for that to be true for somebody to have a very high paying, very well-secured, high-end, you know, job as a server in a high-end restaurant, for our average hourly rate, wage for a waiter and waitress to be as low as it is, we know somebody must have the opposite to balance that out. And that's the kind of thing is we're going to have to keep in mind is, obviously, as a category with this bill, we are impacting all of the members of the group, and so if there are some members who don't need it, that may be fair. I would argue that number is probably much smaller than sometimes it's represented to be.

HILGERS: One minute.

M. HANSEN: Thank you, Mr. President. But, you know, looking at waiters and waitresses, as our Department of Labor categorizes them, it says the average hourly wage for waiters and waitresses in the state of Nebraska, you know, depends on the region, but for some parts of the region, the average for the entire-- for some parts of the state is \$9.36. Statewide average from 2016 it's \$10.17. And so as we hear this debate going on and we talk about who is a waiter, who is a waitress, who is somebody who lives on tipped wages, let's kind of keep in mind that it's close-- I mean, it's the minimum wage. It is a minimum wage. And even with tips, you have the volatility of the industry, you have the volatility of a bad shift, you have the delay in your employer making you whole, because that \$9 minimum wage is over the pay period. It's not over any given day or any given shift.

HILGERS: Time.

M. HANSEN: Thank you, Mr. President.

HILGERS: Thank you, Senator Hansen. Senator La Grone.

LA GRONE: Thank you, President Hilgers. I rise in opposition to LB400 and it doesn't have anything to do with the policy. It goes more to a foundational point, and that is what is the role of government. I think that our market economy and our capitalist system is what has made-- what

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has brought our economy the largest and most prosperous in the world. And I think that that is really a foundational point. I think the forces that drive that are incredibly strong and incredibly advantageous. For example, I believe it was in 2000, might have been slightly earlier, might have been 1990, when the U.N. set the goal of having extreme poverty by, I believe it was 2020. We reached that goal in 2010. And the reason we did so, is because of the free market system and the market forces that go along with capitalism they're able to raise people out of poverty through market access. And so I'm opposed to this bill because it sets an artificial cost for labor, and I recognize that we do that in a lot of other places, but just because we do that in a lot of other places doesn't mean that I'm going to support raising that even higher. I think that we should allow entities and restaurants in this-- mostly in this case, and bars, to pay what people are willing to work for. I think that is how our market system sets what that wage should be. And it's already been talked about how they have to make up the difference to get to the \$9 minimum wage. But I really think it goes to the foundational issue of government should not be mandating to businesses what they have to spend on a certain thing. In this instance, labor costs associated with their business enterprise. These business people take risks in opening their business. They operate on very small margins. Anyone will tell you that the industries that employ tipped workers are usually industries where the profit margins are incredibly small, and so with how tight those operations are, I don't think that it is this body's responsibility to tell them how to run their business, certainly not anymore than we already do. So it really gets to my foundational concern that we should not be setting a cost for labor. And when we've seen this take place in other places across the country, as there's been this movement for higher minimum wage when it gets to the overall minimum wage, we've seen that what it does by artificially increasing the cost of labor, is it actually, because these entities don't have any more money to spend on this, they reduce the amount of hours of their workers, so that they are paying those workers more, yes, that are still working, but there are fewer workers that get those hours. Now, we haven't really seen a drop off in the unemployment rate, simply a reduction in hours, so that their costs stay about the same. And so that's-- it doesn't actually result-- we haven't really seen it result in really more money being paid, simply more money being paid for the condensed amount of time worked, which some people might find that favorable. That's certainly an argument in favor of it, is that you would work less and get paid more, and that gets to the policy discussion, but my opposition is really at the core issue of is this something government should be doing, is setting a

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price for something in the market system, and I think the answer to that question is a resounding no. Thank you, Mr. President.

HILGERS: Thank you, Senator La Grone. Senator Halloran, you're next.

HALLORAN: Thank you, Mr. President, and colleagues, good morning. Nebraskans, good morning. Let me give you a little perspective from someone who operates a restaurant, has managed restaurants. It's been mentioned that it's a low-margin business, and it's also a high-cost business to get into business. To get into the restaurant business you're looking at a range from \$300,000 for a fast-serve restaurant to 1.5, \$2 million to build a restaurant. The margins, 3 to 5 percent. Very low. Let me give you a quick background about when I hire a server, this is the process I go through. We'll sit down for the interview and part of the interview I will explain or detail to the server that I am offering that server an opportunity to run their own small business under the confines of my restaurant. I'm providing the overhead, I'm providing the building, I'm providing the advertisement, I'm providing the chairs, the tables, I'm providing the food prep, I'm providing the food cooking, providing the music. And all they have to do, all they have to do for their little business, I'll assign them 4 to 5 tables, depending on their ability to serve those tables adequately, all they have to do is give tremendous service to their guests, and they will be rewarded, if they give great service, with tips. Now it's been said here that-- with a broad statement, maybe I missed it, it's been said that 84 percent of restauranteurs are people who hire people for gratuities don't declare-- accurately declare or bring their personnel, their employees up to the minimum wage. I would like to see some evidence of that. And if you've got evidence for that, then we need to increase the enforcement of the Labor Department to make sure that those people get caught and are doing what they're legally required to do. Now after I've hired a server, created a small business environment for them to do their business, it only takes one table of four guests, \$12 apiece, \$48; \$48 times a 15 percent gratuity is \$7.20. You add that to the \$2.13, they're above the minimum wage with just one table. The other three or four tables, as they fill those tables and provide service to their guests, that's gravy. The tips they get above that are gravy for that first hour, for the second hour, for the third hour of their shift. I want these folks to make good money at what they do, and I'm providing them the opportunity, as all restauranteurs are, to provide excellent service and get rewarded for that service. So I think it's important for us to keep in mind, as well, that the people who received gratuities on average are

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receiving-- and this is according to the Nebraska Department of Labor Occupational Wages report, 2018, waiters and waitresses average \$12.67 per hour. This is a problem-- this is a solution in search of a problem, okay. If I have a server that comes to me at the end of the day when I close out, and I see that that server is not making enough tips to bring it to minimum wage, I bring them to minimum wage. But then the next day I sit down with that server and I discuss with them why is it that you as a server aren't getting as many tips--

HILGERS: One minute.

HALLORAN: --as the rest of the servers are and we'll have a little discussion about that and I will try coaching that server and I will spend the rest of the week shadowing that server to make sure I can understand why they're not getting tips. And I'll work with that server to do a better job so they can receive the tips they deserve by providing the service that the guest deserve. And if they can't, then they will soon be looking for another job. That's the way business operates. You either give service to the guests that the guests are willing to provide a tip for, or that server does not work for you any longer and they can find some other place to do business. But it is a business opportunity I provide for them and many servers are very grateful for that, and they do well. So I would like to see the information that 84 percent, I think was the figure, of--

HILGERS: Time, Senator.

HALLORAN: --of restauranteurs don't provide minimum wage. Thank you.

HILGERS: Thank you, Senator Halloran. Senator Lowe, you are recognized.

LOWE: Thank you, President Hilgers. You know, I've run many businesses over the course of my lifetime. Five of those, I think it's five, it might be six. Five of those had to do with waitresses and bartenders and tipped personnel. Not one of them ever complained about their wage. Not one of them. And it started out at that time at 2.05 an hour when I first started. Oh, and before my five or six places, I also managed about that same number of businesses, all in the bar restaurant time period. Not one of those ever complained about their wages at 2.05 an hour. Why? Because they were making great money in tips. They were making great money. Not one of them did we

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ever have to go back on and make up the difference, and that is what a business does. If you don't make up to minimum wage, the business then brings you up to minimum wage. America's a great country. Freedom is a great thing in our country. If a waitress or bartender or wait staff is not happy at their business, happy with what they're doing, I'm not holding them there. I'm not telling them they have to stay in this business. They have the freedom to walk down the street, to walk next door to get another job, and I will assist them if they're not happy working for me. I am happy to. I want all my staff to be as happy as can be, because when they are happy, then we do very good business. Business will serve itself. We don't need government-- more government in our businesses the way it is. We don't need to tell our businesses what they need to pay their staff. If we raise wages, we risk the chance of a small business, let's say a small town that has a small cafe that hires four high school students to be their waitresses. And the business itself is barely making any money, but they do it for their community. They may have to let one of their students go. They may have to let any waitress or bartender or staff go because the money is not there to pay a higher wage, even if it's another \$2 an hour, 2.50 an hour. They're doing it for community service. If we lived in a socialist country, if we lived in a communist country, where we tell you, you will be a mechanic, you will be a bus operator, you will be a waitress, you will be a bartender, well, then maybe we can tell that business how much to pay their employee. But as long as we are a free market system, I believe that it is the business and the employee that need to come to an idea on what they are worth being paid. I have no problems paying my staff more than the minimum wage if they're a good staff. If they are bringing customers in, if they are doing a great job, if they're going above and beyond, I have no problem paying them more than what the wage should be. And I have done that.

HILGERS: One minute.

LOWE: Thank you, Mr. President. We must go back to our standings, of our free standings in America. No one is told that you must work some place. When you guys grow up and become people in our society who have jobs, that won't be very long from now, let me tell you. I have some sons that were not too much older than you and not too long ago, and now they are all working and no one is telling them that they must work there and they must earn this much. Thank you, Mr. President.

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HILGERS: Thank you, Senator Lowe. (Visitors introduced.) Mr. Clerk for items.

ASSISTANT CLERK: Thank you, Mr. President. The Revenue Committee reports to General File LB76, LB236, LB266, and LB218, some having committee amendments. The General Affairs Committee reports to General File, LB734, having committee amendments. LR42 introduced by Senator Lathrop. That will be read and laid over. That's all I have at this time, Mr. President.

HILGERS: Mr. Clerk, for an amendment.

ASSISTANT CLERK: Mr. President, Senator Halloran would move to amend with AM578.

HILGERS: Senator Halloran, you are welcome to open on AM578.

HALLORAN: Thank you, Mr. President. Again, this is-- somewhat perceived, may perceive it as being a nominal increase in the minimum wage for people who receive gratuities, but I can't repeat often enough have you ever-- and I'm asking this just a broad general question for everyone that's ever eaten at a restaurant. Have you ever received poor service? Sure, it happens, right? The waiter, waitress can have an off day and you might receive some poor service. So how do you tip in that respect? Do you reward them for being inadequate in their service to you? Do you incentivize them by rewarding them for doing a poor job? That's what this is really, ultimately, all about. Tip-- the acronym tip is to ensure prompt service. It may be an urban legend, but it accurately displays or demonstrates what a tip is supposed to do. If a server comes to you late, provides you the wrong order, are you supposed to tip them 15, 20 percent? No. You explain to them that they provided bad service by not tipping them much at all, if anything. And I recommend to you that you talk to the manager about it. Okay? It's very important. I'll have managers stop by my table when I'm at a restaurant and they'll say, well, how was your meal? And I have to admit, and I'm wrong in doing this, I will just-- if it was a bad meal, poor service, I just don't want to talk about it. I'll say, oh, it was fine and I'll pay my bill. But the manager needs to know if it's not fine, right? Because he can't fix something he doesn't know about. And we're imperfect people so as I say sometimes servers will have an off day, but the manager needs to know about that so that he can correct that. That's what a business needs to do and will do.

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Again, I'm looking for something other than anecdotal percentages. I'm looking for something other than anecdotal stories about people that work at a restaurant and they don't have their minimum wage made up if they make inadequate tips. I just don't believe that's the case. And it troubles me when we make broad statements here on this floor that disparage a whole industry. I think that's unfair to the industry. I think that's unfair to individual restauranteurs that do a great job. And it's unfair to legislate based upon anecdotal stories. So if we're going to pursue this bill, I'm looking for more hard information on how we arrive at such things as 84 percent of the restaurants don't do what they're legally required to do. I can't speak for other restaurants, but I don't want to get in trouble with the Labor Department. I will avoid it at all costs. And I make up the difference if a server is not getting adequate tips. I bring it back to \$9, but I lose in that process because I'm making up the difference to a server who apparently has not done their job well. And that server needs to be taken aside and I've explained that before, but if we can't correct that server's inability to provide great service to the guest, then that server is probably better off, and we're better off, if that server finds another job somewhere else. When you have this kind of unemployment-- when you have this kind of employment, restaurants are begging for good servers. Begging for waiters and waitresses that provide great service because that's the reputation their livelihood depends on. Our reputation depends solely on providing that kind of service, good service, great service. And if we're not getting it, we shouldn't be penalized by having to pay a higher minimum wage to people who can't make up the difference on their own with tips. Thank you, Mr. President.

HILGERS: Thank you, Senator Halloran. Debate is now open on AM578. Senator Slama, you're recognized.

SLAMA: Thank you, Mr. President. I stand opposed to LB400. I think it's important to reference the relevant statute here which is Chapter 48, Section 1203, subsection 2, which reads: For persons compensated by way of gratuities such as waitresses, waiters, hotel bellhops, porters, and shoeshine persons, the employer shall pay wages at the minimum rate of \$2.13 per hour plus all gratuities given to them for services rendered. The sum of wages and gratuities received by each person compensated by way of gratuities shall equal or exceed the minimum wage provided in subsection 1 of this section. Just for reference, subsection 1 outlines that our minimum wage is now \$9 per hour as of January 1, 2016. In determining whether or not the individual is

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compensated by way of gratuities, the burden of proof shall be upon the employer. So after reading the statute, I'm curious-- will Senator Hunt yield to a question?

HILGERS: Senator Hunt, would you yield to a question?

HUNT: Yes, I will.

SLAMA: Thank you. So after what we just discussed in 48-1203, would you agree that legally our tip workers aren't actually making \$2.13 per hours, employers are obligated to ensure that those tip workers are getting on average at least the minimum wage of \$9 per hour, correct?

HUNT: As I said in my opening, I understand it's the law that they receive \$9 an hour, yes.

SLAMA: Okay. So the employers again, just to reiterate, the employers failing to do this are breaking the law, correct?

HUNT: That's right.

SLAMA: Great. Thank you. So this is exactly why I stand opposed to LB400. This seems to me to be an issue of simply if a tipped worker isn't making the minimum wage of \$9 per hour in our state, at the end of a pay period, all averaged out, it falls to the employer to make up that difference in statute already under 48-1203. So if the employer is not making up this difference for the employee, they are already in violation of the law. This seems to be an enforcement problem to me more than a needing to raise the minimum tipped workers wage issue. So as such, I think that LB400 does not solve the issue at hand that's been presented by anecdotal evidence. As such, I stand opposed to this bill. Thank you.

HILGERS: Thank you, Senator Slama and Senator Hunt. Senator Hunt you're recognized.

HUNT: Thank you, Mr. President. I want to-- I did find for Senator Halloran that study that he said he would like to see. And I'm hesitate to print it because it's 27 pages and I think it may be a waste of a tree, but I'll e-mail it to him and I'll read some of it here. Indeed the restaurant-- this is

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--I should say what this is from so we have some credibility here. This is from the Economic Policy Institute and Center on Wage and Employment Dynamics. So it says indeed the restaurant industry is fraught with violations. In the most recent compliance sweep of nearly 9,000 full service restaurants by the U.S. Department of Labor's Wage and Hour Division, 83.8 percent of investigated restaurants had some type of violation. So this is just wages, wage violation. In total, the department recovered \$56.8 million in back wages for nearly 82,000 workers and assessed 2.5 million in civil money penalties. Violations included 1,170 tip credit infractions that resulted in nearly 5.5 million in back wages. Listen, you're not going to get me on this argument that it is the law that we pay them \$9 an hour. Reality is, that's not what happens and we see this from our own Department of Labor. We know that we have evidence for this. The cheapest way for us to fix this is not to hire more people at the Department of Labor. The cheapest way to fix this is to raise the minimum wage a little bit for the first time since 1991. For the first time since most tipped workers were born. This just gets, I think in this body to kind of a fundamental difference in some of our values. We heard on the floor that the wage should be whatever people are willing to work for or that government should not setting a cost for labor. That's just fundamentally not what I believe and so if that's your hard and fast value, then this is not an issue that we're really going to agree on. Because I think it's the right thing for us to do to increase the minimum wage from 2.13 an hour for the first time since 1991, because it is the role of government to set a cost for labor. We literally do that. We have literally done that seven times since 1991 for the for the standard minimum wage. And to conflate the rising subminimum wage to complete raising it to 4.50 an hour in 2019 with socialism as Senator Lowe did, it's a little overdramatic for me because I think that reasonable people know that this isn't socialism. That's not remotely what's happening here. Senator Halloran also talked about the cost of starting a business as a restaurant owner and I understand the cost of starting a business. I have started four businesses. One of them failed horribly. And none of them have made me rich. And he sees restaurant workers as entrepreneurs who are rewarded by tips for giving great service. But we know that tipped workers are more susceptible to harassment and worse, because they have to hustle so hard to earn that wage, to earn a living wage to even pay their taxes and come off government benefits as we have extensive testimony about. In 2009, a professor at Cornell University named Dr. Michael Lind published a study that found that waitresses in the United States with blonde hair, smaller waists and larger breasts received higher tips than other women. His finding circulated among restaurant hiring teams and managers eager to jack-up sales and research after the release

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of this study found that more women with these traits were hired. This article says a whopping 90 percent of women in the U.S. restaurant industry report being subject to unwanted sexual advances at work and more than half of women say these interactions occur weekly--

HILGERS: One minute.

HUNT: --according to the Restaurant Opportunity Center report from 2014. For the restaurant industry, which employs 10 percent of the overall U.S. work force, and where women outnumber men 2-1, the magnitude of sexual harassment is difficult to fathom. So to say things like we shouldn't be setting a wage at all, or the wage should be whatever people are willing to work for, and then say you're an entrepreneur, you earn your wage by hustling and giving good service, no worker is going to give worse service if we raise the minimum wage to 4.50 an hour. What we're going to do instead is decrease the amount of crap that these women have to put up with to earn a living wage. We know that these people are experiencing harassment at a higher rate than other workers and we know that they put up with a lot of that because they've got to earn a wage. If we're against prostitution, this is something that logically follows we should also be against. We should support paying people a wage to pay their taxes, to take care of their families for the first time since 1991. Thank you.

HILGERS: Time, Senator. Thank you, Senator Hunt. Senator Pansing Brooks, you are recognized.

PANSING BROOKS: Thank you, Mr. President. I rise in support of LB400 and oppose to AM578. I want to thank Senator Hunt for bringing this bill. I think it's important. Again it's another step about taking care of our people in Nebraska. We have continued efforts to support business and I'm in favor of supporting business. Been a member of the Lincoln Chamber for over 30 years. We believe in helping businesses thrive, but you know what else I believe in? Helping our people thrive and not working at every step to make sure that our Nebraskans have difficulties in their employment and the hard work that they do. And especially for reasons that are just ridiculous like the person whom they love, but that's another topic for another point. Today, we're talking about the tipped minimum wage which hasn't changed since 1991, \$2.13. I have heard stories about, of course we have people in this body that are good tippers. And we

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have people in this body, and I would hope that we are all good tippers. We're very fortunate people in this body. And we should be good tippers. So I don't feel like I need to pat myself on the back because I am a good tipper. And 10 percent to me is really low and not a good tipper but that's another issue too. Again, the federal minimum wage in 1991, which is the last time that this was changed was \$4.25. The tip minimum wage was half of what the federal minimum wage was. So fortunately, the federal minimum wage has moved up. But, unfortunately, we have not been quite as concerned about the people who are "willing to work for whatever they can." Gosh. We just heard that an artificial increase in the cost of minimum wage will damage business. Well, maybe that's not a good business model. What about that theory? Do we want businesses that prey on the vulnerable? And those who want to do anything they can to make a dollar? Or do we want businesses that work together with employees to help our state thrive, to help our businesses thrive. If our employees do well, so does Nebraska. If our employees are paid a reasonable wage, guess what, those dollars go into our economy. How many pairs of jeans can the employer buy, versus how many pairs of jeans can the employees buy? These dollars directly relate to property taxes, to how we-- how our economy grows and thrives. 31 states have already changed their tip minimum wage and raised it. I think it was said that they provide-- I really appreciate Senator Halloran because he said he coaches his employees who are not getting the full minimum wage and I appreciate that. But I would argue that when he wanders around with that employee, that his friends who are working there are going to be more likely to add a tip to that employee when they're walking around together. So I'm not sure that that's exactly the most--

HILGERS: One minute.

PANSING BROOKS: --perfect measure in any-- by any means. I just want you to think, how are the taxpayers paying for this? Because clearly we are paying for this. We're paying for it for the people that are in poverty, the people that are struggling every day. The single moms with children who have to work every day at the substandard level. And yeah, good employers are following the law. But then why are we worried about it? If they're following the law, then there's no problem about increasing it. Again, we're paying for this through Medicaid, we're paying it through child healthcare, we're paying it through utility bills in communities when there are shut-offs. We're paying for it through food stamps, so if you think that we should just supplement

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every business because they're a business and not recognize that there are a vast number of people who are Nebraskans that need our support. Thank you.

HILGERS: Time, Senator. Thank you, Senator Pansing Brooks. Mr. Clerk, for an amendment.

ASSISTANT CLERK: Mr. President, Senator Wishart would move to amend AM578 with FA22.

HILGERS: Senator Wishart, you're recognized to open on FA22.

WISHART: Thank you, Mr. President. Colleagues, my amendment is pretty simple. So Senator Hunt's bill originally, what she proposed was indexing so it would be 50 percent of the \$9 minimum wage. So as our statewide minimum wage increased, so would the tip minimum wage. Instead of that option, what I am proposing is just offering a flat increase to \$4.50. Again, this would be a one-time increase so the only way we would be able to change that then, as opposed to what Senator Hunt had proposed, was we would have to go back and statutorily raise it when we choose to do that. You know, I rise in strong support of the underlying bill. I think it's from what I've heard so far, it's about time that we increase the tipped minimum wage. To me, it just makes common sense that the more people who are thriving because they have jobs that pay them a fair wage, the better our economy, the better our community. So with that, I'm happy to yield the rest of my time to Senator Hunt.

HILGERS: Senator Hunt, 8:50.

HUNT: Thank you, Mr. President, and thank you, Senator Wishart for your amendment and for the time. I'm in support of this amendment. I'm a reasonable person and this underlying bill is a reasonable bill. This amendment brings it even closer to the center, or to even the right I would say, for a compromise by not indexing the minimum wage to our standard minimum wage. It's clear to me that there isn't a lot of political will in this body to support workers in Nebraska by increasing the subminimum wage and indexing it to the standard wage. So we've got to find a place in the middle to come together and do something to make sure that tipped workers are able to simply pay their bills, which we've heard extensive testimony that that's just not the case. Another concern that I've heard about this bill is that it would lead to an increase in

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unemployment rate because businesses will no longer be able to pay as many employees. I think Senator Pansing Brooks made a great point about that. Sometimes businesses go out of business because they're not good businesses, not because they had to pay their employees a fair wage. As a business owner myself, if I can't afford to pay my employees minimum wage, then I have a failed business on my hands. Most businesses go out of business in the first five years for many different factors, many different reasons. And you hear business owners coming up to legislators all the time, we deal with it all the time in the lobby saying, don't vote for this bill it's going to put me out of business. Vote for this business, it's going to help me stay in business. But we have to talk about the individual responsibility of business owners to run a shop that can run in compliance with the law. And when we see data that 84 percent of restaurants are not in compliance with the law, that's not a condemnation necessarily of restaurant owners. A lot of that is not intentional, a lot of that is accidental but to say that this doesn't happen, to say that women, particularly single mothers like myself, people who live below the poverty line, they are more susceptible to sexual harassment and that's something that we're okay with that, and we're not willing as a body to just raise the wage a little bit for the first time in 28 years and then shelve this argument for another year, I think that that's irresponsible of us. I think it's irresponsible of us to ignore the concerns of every day people, of constituents and voters and residents in this state who need help up in a very changing, very volatile economy, because this is something that we can do at a very low cost to the state. People who are in opposition to this bill, I think we may have some fundamental ideological differences like I said about the role of this state in providing fair wages, but the fact is in the system that we live in now, we do have a responsibility to do that and our neighboring states have taken responsibility for doing that and they've seen no adverse effects of that. 26 states have a tipped minimum wage higher than the mandated 2.13 an hour and seven states have no separate minimum wage for tipped workers, so that means that they have an equal wage. In seven states, everybody gets the same wage, so tips are just on top of that. So far, no data suggests that customers stop tipping, that it hurt restaurants more than an average rate of restaurant failure which could be due to many, many factors. And it is true, legally employers of tipped wages are required to ensure that the sum of their tipped workers base wages, plus tips, is equal to the full minimum wage, but however, enforcement of this requirement of this law has a lot of problems. And evidence suggests that tipped workers are subject to a higher rate of wage theft. That they are more susceptible to harassment and assault to earn their living and we have an opportunity in the body here to address that. This will help the one in 12 private sector

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workers employed by the restaurant industry in Nebraska. These aren't just students working their way through college. It's teachers who aren't receiving enough pay at their full-time jobs, it's parents who are working multiple jobs with no benefits to put food on the table for their families. I'm a single parent, you guys know what I earn here. We talk about it on the floor all the time in this, like kind of joking way. Well, \$1,000 a year, it's not very much money. It's not very much money and it's on top of my other jobs that I have to keep working when we're in recess, on the weekends, at night. I still go to work and I earn a wage because I have to support my family. I don't get benefits at this job. I don't get benefits at my other job. So looking at my own situation, when I put myself in the position of a tipped worker, of a woman who has got to work at night, who has got to be on her feet all day, who has got to hustle to earn tips, and you know, you never know what you have to do for that kind of thing. And sometimes you're hustling for the tip and you don't even end up getting a tip. To debase and demean yourself like that to earn 2.13 an hour and then no tip at all. We also know that a lot of tipped workers earn that 2.13 an hour during hours where they're not earning any tips because they're not serving people. Maybe there's no one in the restaurant. Maybe they're rolling silverware or they're setting up for the day or they're closing down for the day. Those are hours that they work where they don't even earn tips at all. So we can see that we have an opportunity here to help these people by passing this bill. I support Senator Wishart's floor amendment. I think that this is a good compromise for us and I hope that you all take a look at it and give it some strong consideration. Thank you.

HILGERS: Thank you, Senator Wishart and Senator Hunt. Debate is now open on FA22. Senator Erdman, you're recognized.

ERDMAN: Thank you, Mr. President. Good morning, again. I hear the comments about 26 or 28 other states have raised their minimum wage for servers. And we talk about things that we must do what other states do. Let me just remind you of something. We, Nebraska, are the only state with a Unicameral. We don't get too concerned about that, but we want to catch up with everybody else and every other issue that we have. So we don't mind being different, it's okay. So I would like to ask Senator Patty Pansing Brooks a question if she would yield.

HILGERS: Senator Pansing Brooks, would you yield to a question? I don't see her on the floor, Senator Erdman.

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ERDMAN: Okay. How about Senator Halloran? Would he yield to a question?

HILGERS: Senator Halloran, would you yield to a question?

HALLORAN: Would be pleased to.

ERDMAN: Senator Halloran, you heard the comments that Senator Patty Pansing Brooks made about you walking around with your friends and then your waiters or waitresses get more money, did you understand what she said? I was going to ask her that, but she's not here so I couldn't ask her. Do you understand that?

HALLORAN: I do not understand that. When I am shadowing with the understanding from the server that I'm shadowing or to help her, when I'm shadowing-- Senator Pansing Brooks is making a broad assumption that I have a huge number of friends, right, [LAUGHTER] and that my restaurant is just full of my friends. Well, I've a lot of-- quite a number of frequent guests at the restaurant, but they're not influenced by knowing me on tipping the server good or bad.

ERDMAN: Okay. I appreciate that. I appreciate your comments. Senator Hunt, would you yield to a question?

HILGERS: Senator Hunt, would you yield to a question?

HUNT: Yes.

ERDMAN: Senator Hunt, how much more do you think the compensation will be if this bill passes for those people who work for tips? What would their increase in salary be?

HUNT: I don't know the exact number, but I didn't point to other states to say we need to be like every other state or that Nebraska is not great and unique. It's because it happened in other states and the sky didn't fall. And we did see that people had more take home pay. I've got a graph and maybe if someone yields me time later, I can talk about it a little, but I do have data about that and I'll get it for you.

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ERDMAN: Okay. I'm just of this opinion, if the minimum wage and we have to guarantee is \$9 and they now get \$9, it's guaranteed, if your bill passes and it raises the minimum wage, they're still going to get \$9. So the point is, if we don't pass this bill, if we don't pass this, the same thing happens as if we do pass it. And so I don't understand why raising the minimum wage will help them get more money. But here's what it will do, this is what it will do. It will force the owners of the restaurants to pay more money. And when they pay more money, spend more money and it's a very low-volume business, very low-margin business, they will have to raise the price of the products they sell which is food. And if you raise the price of food, you have less customers, if you have less customers you get less tips. So it doesn't look like this is the method that we should use to try to encourage them to get more money or pay them more and so consequently, I commented about the restaurant in Lincoln that had six locations and here's the information that he gave me over the year that he calculated his business tips. He said, if we go with a minimum wage increase, it will cost our business \$155,000 a year in additional wages. And so if you figure that out, and the restaurant makes a 6 percent average return on their investment, 6 percent and you raise \$154,000 out of their pocket, they're going to have to do something to continue to stay in business and that would be raise the product they sell which is food. And the higher you raise your price, the less customers you have, the less opportunity there is to serve people, the less money you make. So this could be actually--

HILGERS: One minute.

ERDMAN: --what you're going to do here is force people to be unemployed and not get better pay. So I'm still opposed to LB400, haven't changed my opinion, but I have another opinion that I think may have value. Senator Slama read off those people who were eligible for tips. I think maybe we should amend that and include the pages, so when a page comes to get me coffee, I should be able to leave that page a tip for doing a service or make copies or whatever it is. So the pages in front are smiling. They think it's a good idea. So we may try that. Thank you.

HILGERS: Thank you, Senators Halloran, Hunt, and Erdman. Senator Quick, you're recognized.

QUICK: Thank you, Mr. President. The one thing I want to talk about is working families and most of these individuals that work in the restaurants, I know some are part-time workers, maybe

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working an extra job to earn money while they're in college. There are some that are also working at as an extra supplement to their pay to their regular job during the day and then you have, there's quite a few families though are people who work in the business that that's their main source of income. And so, I know we've heard a lot of talk about that they have to bring the wage to \$9. My opinion is there should just be one minimum wage and it should just be \$9 an hour in our state. But that's just my opinion. I do support LB400 and Senator Wishart's floor amendment. And I would-- I think taking it to 4.50 at least puts us in line with the surrounding states around us like Iowa, South Dakota, Missouri, and Colorado. They're all higher than what we have right now. And I think that's important as well. I know that a lot of the tipped workers also in some of the restaurants anyway have to tip out maybe the bartender, maybe have to tip out the kitchen, the kitchen staff, or they have to tip out some of the people that bus tables. So they don't get to keep all of their tips. Maybe some of the employers they run it differently, but I know where my daughter actually worked in a restaurant or a bar restaurant while she's going to college at UNO and she had to tip out the bartenders and I think the kitchen as well. And I can tell you that sometimes she didn't like doing that but that was a requirement for them to do that to take her tips and give it to them. So that just detracts from their wages. I think we also have to look at-- there are a lot of jobs out there that we currently give tips to that actually fall under the regular minimum wage, the \$9 minimum wage. Every time you go to maybe a hair dresser, people tip them as well. Your taxi, when you tip someone in their taxi or Uber or-- there's lots of jobs out there that we already tip, workers who would be-- fall under the regular minimum wage. And I guess that's one of my reasons for making it just \$9 an hour because these families are trying to support themselves. I know a lot of times, too, that these employees also are not receiving benefits. So, that is another big issue for some of them because they-- the ones that do have families at home and have kids, they're also away from home so someone has to be watching the kids. So either they're away from their families at that time or they're having to pay for day care which really working a job like this, there's no way that they could do that and afford day care. I think as far as you look at the health insurance issue, I mean, that's another issue there, there would be no benefits for health insurance or any type of retirement benefit either in this line of work. So I think a lot of people have-- could use this benefit of increasing the minimum wage to at least 4.50. I don't think it's going to hurt the employers as much as they say. And with that, I would yield the rest of my time to Senator Hunt if she wishes.

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HILGERS: Senator Hunt, one minute.

HUNT: Thank you, Senator Quick, and thank you very much. There was a question from Senator Erdman about whether wages go up for tipped workers when states increase the tip minimum wage and the answer is yes. According to the EPI analysis of Current Population Survey, Annual Social and Economic Supplement microdata-- this is from an article --the poverty rates of tipped workers-- this analyzes the poverty rates of tipped workers, nontipped workers and wait staff and bartenders by state tipped minimum wage. And what this graph shows, and I'd be happy to distribute it, but it's also really easy Google search if you're on your computer. In states with the lowest subminimum wage, which is Nebraska, we pay our tipped workers as low as we can legally pay them. The poverty level for those workers is 18.5 percent.

HILGERS: Time, Senator.

HUNT: Thank you.

HILGERS: Thank you, Senator Hunt and Senator Quick. Senator Halloran, you're recognized.

HALLORAN: Thank you, Mr. President, colleagues. Would Senator Hunt yield to a question or two?

HILGERS: Senator Hunt, would you yield to a question?

HUNT: Yes.

HALLORAN: Thank you, Senator Hunt. Your bill uses the power of the state to force an employer to pay a worker a higher wage, correct?

HUNT: Yeah.

HALLORAN: Does your bill force an employer to keep a worker who isn't worth their higher wage?

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HUNT: No.

HALLORAN: What's an employer to do?

HUNT: Well, we're a right to work state. An employer can fire an employee for pretty much any reason, including being gay.

HALLORAN: What happens to an employee who is fired because they aren't worth their higher wage?

HUNT: They can go work somewhere else. They'll have to find another job.

HALLORAN: Okay. Study after study--

HUNT: They could come work for me. That might be okay.

HALLORAN: How many businesses have you started up?

HUNT: Four.

HALLORAN: How many are in business now?

HUNT: Two.

HALLORAN: Okay. Study after study clearly illustrates that every time the minimum wage is increased, there's a corresponding decrease in entry level jobs for teenagers, low or no skill workers trying to enter the work force. Minimum wage laws hurt those most vulnerable people in our society, our youth, unskilled and undereducated citizens who already face many difficult barriers to their gainful employment. Now, restaurants do have options. Senator Erdman hinted at some of those. If we have to increase our minimum wage for people who receive gratuities, and we find our profit margins slipping, don't want to go out of business because we want to keep the employees hired and we want to make a profit, nothing dirty about that, then we have several

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options. We're not going to reduce the cost of food. The cost of food is driven by commodity values and we have little or no control over that. You're forcing us to raise the minimum wage so we've got no control over that. Our option is, is to reduce our staff. And it's not a great option because if we reduce our staff, we're going to end up overworking the remaining staff, we're going to end up less satisfying our guests because they have inadequate number of servers, and that will snowball into guests not coming back. We live on repeat customers. Most businesses do. There have been remarks made on the floor that I find intolerable, distasteful, beyond the pale. There's been remarks about restauranteurs preying on the vulnerable. Waitressing is the same as prostitution, really? Restauranteurs harass their employees and assault their employees. We're using-- others have used that. Okay. But others have used that. I find that kind of disparaging language unnecessary. The industry is a respectable industry. We respect our employees, we depend on our employees. If the employees don't show up and do the job they're supposed to do, we shut our doors. Not that we would want to, but it just shows how dependent we are on those employees. Thank you, Mr. President.

HILGERS: Thank you, Senator Hunt and Senator Halloran. Senator Cavanaugh, you're recognized.

CAVANAUGH: Thank you, Mr. President. I rise today in support of Senator Hunt's LB400. I also support Senator Wishart's amendment. So, I did some research while I was sitting here listening, and in 1990 the cost of a pound of hamburger meat was 89 cents, and 2013, the cost of hamburger meat was \$4.68. That's five times an increase. I looked up hamburger meat because that's something that we commonly-- well, not me, I'm a vegetarian, but that's something that most people commonly order a hamburger when they're out to eat. And the fact that we can have a rise in the cost of a burger five times but we can't pay the people that are serving it to you, an increase from \$2.13 to \$4.50 in 28 years is unconscionable to me. I've worked in the wait service industry as a tipped worker and it was quite a long time ago, but not more than 28 years, so I made \$2.18 and had to rely on the generosity of the patrons to make a living. I had an apartment, I had my college tuition to be paying for. I had to buy food in order to survive. I needed to make sure that I got tips. And I worked very hard at that job and it was exhausting. So to think that there are people today still working for that wage is insane to me. The cost of living has gone up, the cost of food and restaurants has gone up, and we should be accounting for the cost of our

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employees. I'm not really sure how a restaurant can say that it's okay to increase the cost of the food that they're serving you if part of that increase doesn't go towards the work force. And with that, I'd be happy to yield my time, if she would like it, to Senator Hunt.

HILGERS: Senator Hunt, 2:36.

HUNT: Thank you very much, Senator Cavanaugh. Nobody said-- I want to be clear on the record here, nobody said that restaurant workers harass or assault their employees and the transcript of this floor debate is going to bear that out. It's also untrue that anybody said that restaurant workers are prostitutes. That was a comment on Senator Halloran's remark that he sees servers as entrepreneurs who have control over how much they earn by the quality of service they provide. But we know a few things based on credible research conducted by universities over years. One of those things is that nearly 40 percent of all sexual harassment claims made to the federal agency that deals with work place discrimination originate with misconduct in the restaurant industry. Between 2004 and 2014, restaurants in 15 states, including Nebraska, surrendered \$10 million in damages for sexual harassment cases. And we know that routine exchanges between servers and customers, like taking an order, refilling a drink, picking up a fallen napkin, anything that you have to do, bringing the bill, these can quickly devolve into opportunities for sexual harassment. This is not on the part of the restaurant, this is not something they can control necessarily, but when you tie somebody's wage and we keep it at such a low wage, we say we're going to keep your wage as low as legally possible, which is it in Nebraska. If they ever raise the federal subminimum wage again, then ours will have to go up because ours is tied to that, of course. But if we say that you're like an entrepreneur and you can earn more money if you work hard enough for it, you can earn more money if you make the customer happy enough.

HILGERS: One minute.

HUNT: To me that's a problematic thing to say. If we raise the subminimum wage a little bit and I promise not to bring this up for the rest of my time in the Legislature, we know that it's going to have a measurable impact on the quality of life, the take-home pay and it won't impact the service of restaurant workers who would benefit from this legislation. Nobody is going to start

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giving worse service because they're earning a higher base pay. Many of these workers will still be taking home \$9 an hour because raising the base pay to 4.50, they're still not going to make enough tips on that to get to 9 so they're still going to be having that made up by their employer. That's going to be the case in many restaurants on slow days when there aren't a lot of customers. So as a body we've got to decide to just increase this wage. It's not socialism. Restaurant owners are not assaulting their employees. That's not what this is about. And with that, I'll just wrap it up. Thank you.

HILGERS: Thank you, Senator Hunt and Senator Cavanaugh. Senator Lowe, you are recognized.

LOWE: Thank you, President Hilgers. This is just a bad business bill. And the FA amendment, number 22, I don't agree with also. You know, in Nebraska, we're trying to do economic development and here we are trying to discourage businesses from hiring people because we're going to make them pay more in wages to the people that they already have. Don't we want to encourage more employment in Nebraska, and not less employment? As Senator Halloran and I have been stating that we work with our employees very closely to make sure that they are making a good wage. We don't want them taking home a minimum wage. We want them taking home as much as they possibly can. Senator Pansing Brooks brought up the question of just compare the number of pairs of jeans that an employee buys compared to the number of jeans a business owner buys. That really doesn't have anything to do with anything because I always looked at my employees and they always drove better cars than I did. Does that mean they were making more money? Don't know. They buy two more pairs of jeans, does that mean they're making any more money? Don't know. You know, I was talking with Senator Moser-- if Senator Moser would yield a question.

HILGERS: Senator Moser, would you yield to a question?

MOSER: Of course I will. Thank you.

LOWE: Senator Moser, you brought up an idea of not paying any minimum wage to tipped personnel, is that correct? What is your thinking on that?

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MOSER: Well, the question I asked off the mike was whether it might be better to not pay any minimum wage to tipped workers, some people go to a restaurant thinking that the employer is paying them and so that they don't need to tip. If the entire income of a server was dependent on their tips, then the customer would be more considerate to the server, I think, and I think the server would work harder to make sure that those customers were well-served. So I don't think-- I'm against a minimum wage for tipped workers. I don't think it's a good idea.

LOWE: Thank you, Senator Moser. Senator Pansing Brooks, would you yield to a question?

HILGERS: Senator Pansing Brooks, would you yield to a question?

PANSING BROOKS: Sure.

LOWE: Well, thank you. You brought up about the pairs of jeans. Is there any relevance in the number of jeans a person buys to compare to how much money they make?

PANSING BROOKS: No, that was not my point. But thank you for asking. What I was saying that there are more employees so they have a better ability to invest in our economy if they're paid appropriately versus the one employer. I'm not saying that-- who's buying more, I'm saying that there's more employees and then more employees can inject more dollars into our economy.

LOWE: Thank you, Senator Pansing Brooks. If we have to let go one of those employees because we've raised our minimum wage, that means they're not able to buy more things. I'd like to yield the rest of my time to Senator Groene.

HILGERS: Senator Groene, 1:20.

GROENE: I'll make it quick. I'm going to stand up for the small town cafes. When we had the minimum wage debate the last time, since then-- if any of you urban senators have been to small towns, main streets have dried up. More businesses have closed. Small entrepreneurs, farmer wives that started little stores and knickknack stores on main street have closed--

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HILGERS: One minute.

GROENE: --had to close because they can't afford 9 bucks an hour, they can't give the high school kid a job for 5.50, 7 bucks anymore. This only gives a raise to the high-end waiters, the ones making 10-12 bucks an hour in tips. Because now they're going to get-- instead of 2.13, 4.50 on top of that. The small town waitress is still going to make 9 bucks. This is a rich waiters pay raise because we don't serve enough meals in a small town cafe in a week than they do one night in the Old Market, at the Haymarket. Those small town cafes offer jobs to high school kids and stuff, you just took their jobs away if you raise this. But then again, we don't care about small town Nebraska, do we? We care about the Old Market and the Haymarket and professional waiters and waitresses, which I admire them. I've traveled all my life. They're the only ones going to get a raise. Small town one won't.

HILGERS: Time, Senator. Thank you, Senators Pansing Brooks, Moser, Lowe and Groene. Items, Mr. Clerk?

ASSISTANT CLERK: Thank you, Mr. President. The Banking Committee reports to General File LB15 and LB619, both with committee amendments. LB447A introduced by Senator McDonnell. (Read LB447A by title for the first time.) Amendments to be printed: Senator Halloran to LB400; Senator Wayne to LB98; Senator Lindstrom to LB610; Senator Briebe to LB183. An announcement. The Business and Labor Committee will Exec at noon in Room 2022. A series of name adds: Senator Chambers to LB15; Senator Slama to LB15; Senator Lowe to LB626.

Finally, a priority motion. Senator Moser would move to adjourn until Thursday, March 14, 2019, at 9:00 a.m.

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