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Transcriber's Office

Floor Debate
March 25, 2019

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SCHEER: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the forty-seventh day of the One Hundred Sixth Legislature, First Session. Our chaplain for today is Bishop Evan Clark from the Church of Jesus Christ of Latter-day Saints in Bellevue, Nebraska, in Senator Crawford's district. Would you please rise.

BISHOP EVAN CLARK: (Prayer offered.)

SCHEER: Thank you, Bishop Evan Clark. I call to order the forty-seventh 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: Thank you. Are there any messages, reports, or announcements?

ASSISTANT CLERK: Mr. President, at this time, there are no messages, reports, or announcements.

SCHEER: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and here do sign LR43 and LR44. (Visitors introduced.) Mr. Clerk, we'll proceed to the first item.

ASSISTANT CLERK: Thank you, Mr. President. LB390 was introduced by Senator Pansing Brooks. (Read title.) The bill was introduced on January 17 of this year, referred to the Judiciary Committee. That committee placed the bill on General File with committee amendments attached.

SCHEER: Thank you, Mr. Clerk. Senator Pansing Brooks, you're welcome to open on LB390.

PANSING BROOKS: Thank you, Mr. President, and members of the body, good morning. LB390 is a bill designed to clarify the role of school resource officers, enhance safety, and keep

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children from ending up in the school with a prison pipeline. When Senator Linehan and I traveled to schools across the state in 2017, as a part of our interim study examining dyslexia and reading literacy, I used that opportunity to ask school resource officers if they have SROs and if so, how they were being used. I received a variety of answers and I also learned that in some schools kids were being charged for schoolyard fights and pushing matches. While I'd heard of these practices taking place in other states, I was quite taken aback by the revelation that this was happening in Nebraska. I do not believe that most parents want our juvenile justice system having jurisdiction over things that should be handled through restorative justice and conflict resolution training as well as school disciplinary matters-- measures, sorry. Research shows that early interactions with the juvenile justice system puts more kids into the school to prison pipeline and thereafter into adult corrections, which just feeds the overcrowding problem of our prisons. Research also shows that there is disproportionate impact on children of color throughout our juvenile justice system. In the conversations I've had with the variety of law enforcement and education officials since that time, I have found that the role of SROs isn't very clear. There's often confusion when a problem should be handled by a school administrator, a teacher, or an SRO. Nebraska statutes currently offer no guidance. We had an interim study last fall and found that there were wide discrepancies across the state on the use of memorandums of understanding, training requirements, and how SROs were being used. Fortunately, there are a number of best-practice models available, some of which are being used by Nebraska communities and school districts. I have passed out a parent's checklist for SROs in your children's schools that's been put out by Strategies for Youth, a national leader that works to improve police and youth interactions. Strategies for Youth provides the training for the Operation Youth Success Program which is currently implemented in Omaha, and which has seen a dramatic decrease in arrest by deploying these best practices. I've also passed out information on this program. Omaha Deputy Police Chief Greg Gonzalez testified in support of LB390, and I want to commend him for working with us on this bill and for all the work that he has done for Operation Youth Success. First, let me be clear, no part of LB390 requires the hiring of an SRO. It just ensures that if a district decides to hire an SRO, certain best practices will occur. LB390 will make sure we aren't using law enforcement's time on disciplinary matters but rather to enhance safety, respond to law violations, and to serve as a community resource for students, parents, and school staff. LB390 makes clear that school districts do not have to use SROs, but if they choose to do so, they must have a memorandum of understanding with law enforcement that includes training for law enforcement and school administrators in school laws, student's rights, understanding special-needs students, and students with disabilities, implicit bias training, conflict deescalation techniques, ethics for school resource officers, teenage brain development, adolescent behavior, etcetera. School districts may adopt a model memorandum of understanding or they may adopt their own MOU that meets the minimum standards of this act. LB390 also includes parental or guardian involvement as they have a vested interest in being informed on school discipline matters and to be notified if their children are contacted, questioned, searched, sanction cited, or arrested by an SRO. In working on LB390, I consulted

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with a number of interested parties for whom I'm very grateful because they've helped make this a really strong bill, including city officials, law enforcement, including PCAN, the Police Chief's Association of Nebraska, educators and school officials. I'm pleased we have developed something in collaboration that I believe sets the right balance. The fact is, more and more SROs are being used in schools and our state statutes need to speak to this and offer clarity for stakeholders. You know, I love a broadly multi-partisan, Kumbaya, moment, and this is one of them. And with that, I thank you and ask that you pass LB390 on to Select. Thank you, Mr. President.

SCHEER: Thank you, Senator Pansing Brooks. As the Clerk noted, there are committee amendments from the Judiciary Committee. Senator Lathrop, as Chair of the committee, you're welcome to open.

LATHROP: Thank you, Mr. President, and colleagues, good morning. The Judiciary Committee voted to amend LB390 with AM408 by a vote of 6-0 with one member not voting and one member absent. The committee advanced the bill on a 6-0 vote again with one member not voting and one member absent. LB408 replaces the original bill. The amendment shifts the state level responsibilities from the Crime Commission to the Department of Education. The amendment also shifts responsibilities related to the memorandums of understanding from law enforcement agencies to the school districts. The amendment also reduces training requirements and aligns the requirements for recordkeeping of the demographics of youth referred for prosecution with existing federally identified characteristics. Otherwise, the bill remains as the amendment incorporates the original terms of LB390 and I would encourage your support of the amendment as well as the bill. Thank you.

SCHEER: Thank you, Senator Lathrop. Seeing no one in the queue, Senator Lathrop, you're welcome to close. He waives closing on AM408. The question before the body is adoption of AM408 to LB390. 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.

SCHEER: AM408 is adopted. Returning to discussion. Senator Bostelman, you're recognized.

BOSTELMAN: Good morning, Mr. Speaker. Good morning, colleagues. Would Senator Pansing Brooks yield to a question?

SCHEER: Senator Pansing Brooks, would you please yield?

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PANSING BROOKS: Yes, I'd be happy to.

BOSTELMAN: At a lot of our functions and events at schools through the years we'll see a county sheriff, someone like that that will come in that's not necessarily resource officer, not necessarily someone that's full-time at the school. Could you talk about that just a little bit what impact that may or may not have with that officer coming on to the grounds, those events like football game, basketball game, concert, whatever it might be?

PANSING BROOKS: Yes, that's a good question, Senator Bostelman. We have addressed that in the bill. So these are people that are assigned as part of their full-time operations and duties at a school, and in agreement with the school. It's not somebody who's coming in on a-- number one, on a call to a school that might have a police officer that's called in for something that is not working there in the day-to-day operations with the school.

BOSTELMAN: Right and that's kind of my question on the point is a lot of times we'll see them, they'll come by, they'll stop, they'll come into the event for a little while and stand there and then they may leave or whatever, but we're not talking about those individuals. That's separate.

PANSING BROOKS: Yes, this does not affect that at all.

BOSTELMAN: Okay. Also, I guess, other question, I saw the training in that goes for an administrator, someone in administration or a teacher as well as the resource officer. Is that correct?

PANSING BROOKS: That's correct because we felt like-- and the educators agreed to that. I know that we would mostly think that educators understand the teenage brain and all that, but the best practices show that if you have the police and the administration on the same page that then they're working together simultaneously, and it's stronger.

BOSTELMAN: Sure. Did you see any difference between a larger school district and a smaller school district as you went across the state as you're talking about over the summer as far as a response how they-- if they have a resource officer? Probably not all of them do.

PANSING BROOKS: That's correct. I believe that 18 counties have them, 88 percent of law enforcement already does training, but this is not-- because of Lincoln, Lincoln has one district, is one city, one district. So all the schools are within one district. So that's why we clarified it that some administrator within the school, not just the superintendent at Lincoln Public Schools

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district office. One administrator or teacher in the school and law enforcement assigned to that school must have that training.

BOSTELMAN: Okay. Thank you.

PANSING BROOKS: Thank you.

BOSTELMAN: That's all. Thank you.

SCHEER: Thank you, Senator Bostelman and Senator Pansing Brooks. Senator Albrecht, you're recognized.

ALBRECHT: Thank you, Speaker Scheer. And would Senator Patty Pansing Brooks yield to a question?

SCHEER: Senator Pansing Brooks, would you please yield?

PANSING BROOKS: Sure.

ALBRECHT: Hi. I just wanted to ask a little bit more from Senator Bostelman's comments. You said there was an interim study, so were there representatives throughout the state that actually have SROs in their schools, obviously as well as the, you know, Department of Education? Could you elaborate on who helped you with this bill and--

PANSING BROOKS: Yes. There were representatives who came for that interim study this past-- it was this past fall, and we had police officers that came to speak. Chief Deputy Gonzalez from Omaha came to speak about how since they've implemented some of the strategies in training, the arrests have gone down. What happened is that there was-- there are some times that schools would rather hand disciplinary matters off to the police. I was actually contacted by police in Lincoln saying, this is not appropriate that we're handling disciplinary matters. And the reason it would happen is because, of course, it's easier for the schools to sort of wipe their hands of it and say, oh, well, the police have taken care of this, there's nothing we can do. When in actuality, disciplinary matters are actually under the authority of the schools, and that's what we want to have happen.

ALBRECHT: Thank you. And remembering back when Senator Wayne was talking about the number-- I know we appointed or we agreed to have an extra juvenile judge because they were

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having so many tickets written in schools that all of them are getting backed up in the system, and I look at this bill as something that would help that where the schools would end up taking care of it. I just want to know, and one more question to Senator Patty Pansing Brooks if she would yield please.

SCHEER: Senator Pansing Brooks, would you yield again, please?

PANSING BROOKS: Yes.

ALBRECHT: Again, I appreciate this bill and that it was brought to us. In the fiscal note, though, would we then be making it mandatory for all schools that have a school resource officer full-time on the ground to invest in that? I know the larger schools probably already have a lot of this going on, but they just needed clarification. But would that mean that everyone in the state of Nebraska, all schools who have resource officers would have to comply with this, correct?

PANSING BROOKS: If a school has decided to hire an SRO, and along with that is the duty to make sure people are trained appropriately, and you're correct if you would look at page five of the school justice partnerships from Omaha, you'll see that the arrests have gone down significantly for felony-type crimes as well as misdemeanor-type crimes. So, again, you're right. This is to help that juvenile justice system and hopefully quit filling the school to prison pipeline, which then again leads to adult corrections because they're much more likely to end up there.

ALBRECHT: I really appreciate that. Thank you.

PANSING BROOKS: Thank you.

ALBRECHT: Thank you.

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

ARCH: Thank you. If Senator Pansing Brooks could yield to a question, please.

SCHEER: Senator Pansing Brooks, would you yield again, please?

PANSING BROOKS: Yes, I'd be happy to.

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ARCH: Your bill-- thank you. Your bill references a memorandum of understanding. Actually it references a model memorandum of understanding. Does that current model exist now? Is that something that has to be written yet?

PANSING BROOKS: No, those do exist and there are models-- National Best Practice models. Omaha has a memorandum of understanding. Lincoln has just adopted one and gone quite a bit past what the requirements are on this bill. That's not necessary and so there are model examples and the Department of Education felt that it was quite easy for them to keep a model and have it available for any school that would like to use it.

ARCH: So part of the process now would be that the Department of Education would actually adopt a model that they're comfortable with and then would disseminate that model to the schools?

PANSING BROOKS: Yes, and then the schools can either choose to change it and, you know, come close to it but make it their own too.

ARCH: Thank you. The SRO officer has arresting authority, do they not?

PANSING BROOKS: The SRO officer if they are a police officer has arresting authority. We have clarified because of work with the Police Chief's Association and with the police. We've really clarified that security guards do not have arrest authority and we wanted to make sure that that was clear because it's-- at one point in the first bill I talked about apparent authority because some parents and kids may think that a security guard has an apparent authority that they can arrest, but that is not true. And so, they too have-- the security guard and the agency has to go through an amendment of understanding and the same kind of training.

ARCH: So a security guard then would call the local police or sheriff or whatever and they would make the determination whether-- I use an example of a school fight--

PANSING BROOKS: Yes.

ARCH: --has turned into an assault.

PANSING BROOKS: Yes.

ARCH: And then it would be a chargeable offense.

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PANSING BROOKS: Yes.

ARCH: But nothing in a memorandum of understanding would prevent a charge of assault or an arresting--

PANSING BROOKS: No.

ARCH: --or an arrest if the police decide that that is an appropriate charge given the severity and given the situation.

PANSING BROOKS: Absolutely.

ARCH: Okay. Thank you.

PANSING BROOKS: Thank you.

SCHEER: Thank you, Senator Arch and Senator Pansing Brooks. Senator Kolowski, you're recognized.

KOLOWSKI: Thank you, Mr. Chairman. Senator Pansing Brooks, just to comment, if I may, on your SRO list that was handed out to us. Depending on the location of the school, you may have a difference between deputy sheriffs in the county and the city police. At Millard West High School, my first 15 years as a principal there we were joined with the Douglas County Sheriff's Office, not the Omaha police. And so the partition or the training between the two of them would have to go on to make that a smooth transition to whatever you wanted it to be as far as the future is concerned. That's a-- we had an excellent relationship with the Douglas County Sheriff's Office. They did an outstanding job with us, and as that has, I believe, transferred into Omaha public, the Omaha police in the last couple of years, that may take place depending on the division of a-- or the location of a school within a school district within the city. And I just bring that up as a cautionary issue that may exist in some situations. Thank you.

SCHEER: Thank you, Senator Kolowski. Senator Bostelman, you're recognized. Senator Bostelman waives. Seeing no one left in the queue, Senator Pansing Brooks, you're welcome to close on LB390. She waives closing. The question before us is the advancement to E&R Initial of LB390. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

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ASSISTANT CLERK: 38 ayes, 0 nays on the motion to advance the bill, Mr. President.

SCHEER: LB390 does advance to E&R Initial. Items, Mr. Clerk.

ASSISTANT CLERK: Thank you, Mr. President. Your Committee on Enrollment and Review reports that it has carefully examined and reviewed LB511, LB34, LB348, LB405, LB130, LB130A, LB409 and LB243 and recommended the same be placed on Select file, some with E&R amendments. In addition to that, new resolution, LR56 by Senator Howard congratulates Reverend Keith Winton on his ordination as a priest in the Episcopal Church. An amendment to be printed to LB243 from Senator Hughes. That's all I have at this time.

SCHEER: Thank you, Mr. Clerk. Returning to the agenda, LB320.

ASSISTANT CLERK: LB320 introduced by Senator Albrecht. (Read title.) The bill was introduced on January 16 of this year, referred to the Agriculture Committee. That committee placed the bill on General File with no committee amendments.

SCHEER: Thank you, Mr. Clerk. Senator Albrecht, you're welcome to open on LB320.

ALBRECHT: Thank you, Speaker Scheer, and good morning, colleagues. I introduced LB320 on behalf of the Department of Agriculture. LB320, again was passed by the Agriculture Committee 8-0 and did not receive any opposition testimony at the hearing. I want to thank Chairman Halloran and the Agriculture Committee for choosing this as a priority bill this year. LB320 adopts the 2019 versions of the federal laws and regulations referenced in the Pesticide Act, and currently the act refers to the 2013 federal laws and regulations. LB320 also includes small cleanup provisions. The Federal Insecticide, Fungicide, and Rodenticide Act is the federal law regulating the manufacturer, distribution, sale, and use of pesticides with the intent of protecting humans and the environment from damage caused by pesticides. Regulating the manufacturer labeling and distribution of pesticides, and creating a program whereby applicators of the pesticide show some measure of competency in the use of the pesticides. Nebraska Department of Agriculture has a cooperative agreement with the U.S. Environmental Protection Agency and the EPA to allow the Department of Ag to conduct pesticide enforcement for the EPA in the state. Nebraska has been granted these enforcement capabilities because the EPA has deemed that Pesticide Act adequately complies with the federal rules and regulations. LB320 updates the Pesticide Act to align with federal regulations for the certification of applicators who apply restrictions to use pesticides. States like Nebraska which enforce pesticide regulations under the cooperative agreement with the EPA, must submit updated applicator certification plans to the EPA by March of 2020. LB320 would provide the Department of Agriculture with the authority to have a certification plan in line with federal regulations. This cleanup bill provision simply

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updates definitions found in Section 1 and reorganizes provisions in order to remove redundant language and be more concise. With that, I ask you to please vote green on LB320. Thank you.

SCHEER: Thank you, Senator Albrecht. Returning to floor discussion. Seeing no discussion, Senator Albrecht, you're welcome to close. She waives closing on LB320. The question before us is the advancement to E&R Initial of LB320. All those in favor please vote aye; all those opposed please vote nay. Have all voted that wish to? Please record.

ASSISTANT CLERK: 37 ayes, 0 nays on the motion to advance the bill, Mr. President.

SCHEER: LB320 is advanced to E&R Initial. Next item.

ASSISTANT CLERK: Mr. President, LB603 introduced by Senator Lindstrom. (Read title.) The bill was introduced on January 23 of this year, referred to the Banking, Commerce and Insurance Committee. That committee placed the bill on General File with no committee amendments.

SCHEER: Thank you, Mr. Clerk. Senator Lindstrom, you're welcome to open on LB603.

LINDSTROM: Thank you, Mr. President. Good morning, colleagues. LB603 is a bill to change automatic teller machine fees. LB603 will modify Nebraska statute 8-157.01 to allow more flexibility for payment networks in setting default interchange fees. It will no longer require each payment network to apply the same default interchange fee to each issuing bank with an office or branch in Nebraska for Nebraska cardholders conducting transactions at Nebraska ATMs. This bill is not an increase for consumers and enacting LB603 will modernize Nebraska statutes without putting our residents at any disadvantage. LB603 was heard in the Banking, Commerce and Insurance Committee on February 26, 2019, with no opposition and was unanimously advanced to General File. Thank you to Chairman Williams and the Banking Committee for making this one of the committee's priorities, and I ask for your green vote on LB603. Thank you.

SCHEER: Thank you, Senator Lindstrom. Moving to floor discussion. Seeing none, Senator Lindstrom is welcome to close. He waives closing. The question before us is advancement of LB603 to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Has everyone voted that wish to? Please record.

ASSISTANT CLERK: 38 ayes, 0 nays on the advancement of LB603, Mr. President.

SCHEER: LB603 is advanced to E&R Initial. Mr. Clerk, LB713.

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ASSISTANT CLERK: LB713 introduced by Senator Vargas. (Read title.)The bill was introduced on January 23 of this year, referred to the Executive Board. The Executive Board referred the bill to General File with no committee amendments.

SCHEER: Senator Vargas, you're welcome to open on LB713.

VARGAS: Thank you very much, President, Speaker. Members of the Legislature, I'm here to introduce LB713. LB713 is a legislative vehicle for the work, some of the things we've been looking on at the Legislative Planning Committee, which I serve as Chair of this year and served as Vice Chair for the previous two years. This committee has spent nearly a decade working with the University of Nebraska to project long-term population trends for our state over the past 50 years and the next 50 years so we can better plan to meet the needs of people across the state and have a better understanding of what we can do to prepare our work force to meet those needs. Now that we have the information and data, the next step for us is to implement some of that planning. That's where I believe LB713 comes in. Now as you all know, Nebraska is constitutionally prohibited from acquiring debt, which has caused the Legislature to deplete cash reserves. We have not implemented a plan to restore and balance the budget in anticipation of future economic downfalls and recessions. Now in order to meet the needs of future Nebraskans, we have to start planning now, and part of that planning is better understanding how volatility and economic cycles affect our state budget. LB713 provides the framework to do that type of planning by adding a new step to the Legislature's budgeting process that requires that the legislative fiscal analyst to create an additional revenue and budget report throughout the biennium. These reports including a revenue volatility report in even-numbered years, a budget stress test in odd-numbered years, and a long-term budget for major programs every four years. States that have done this types of stress testing on their budget have developed plans for various economic conditions and are more prepared to reduce the risk of volatility to the state's reserves and revenues. Utah has been conducting stress testing since 2015 to manage the business cycle. It sets a sustainable budget and revenue expectations and avoid crisis-driven policy divisions. Now through this process the state has been able to develop a plan to combat moderate and severe recessions without drastic spending, decreases, raising taxes, or the use of bonding. Research from Moody's Analytic Projects projects fiscal shock for every state under moderate and severe recession scenarios. Now fiscal shocks are measured by the combining the decrease in revenues to the General Fund and the increase in mandatory spending. Now under severe recession conditions, somewhat to what we experienced in 2008, these models show that Nebraska is projected to experience a fiscal shock of negative 13.2 percent, which is equivalent to a funding gap of about 595 million. Now, as a member of Appropriations where we've had to make two rounds of painful cuts to programs and services outside of an even more moderate recession, I'll tell you this. I don't know where the money is going to come from right now. Our cash reserves are at 50 percent depleted and programs and services have been painfully cut. It's clear to me, and I hope clear to all of you, that we need to implement a policy in order to secure

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Nebraska's future and economic well-being. The only other thing I'll say is that this bill is, I think, represents a positive step forward in making sure that the legislative Fiscal Office is setting some set of tools for us to then be able to use in the future. This was passed in the Utah Legislature about three years ago, and since then it significantly improved their fiscal health. I think this is a really strong step forward for budget stress testing for revenue volatility reports and just from overall measuring our budgets. And, again, it's going to be a great tool for to us to use in the age of term limits and the age of our fiscal analysts. We see some retirements. I think this is a prudent step forward for the Nebraska Legislature. With that, I ask your green vote for LB713.

SCHEER: Thank you, Senator Vargas. Going to floor discussion. Senator Hilgers, you're recognized.

HILGERS: Thank you, Mr. President. Good morning, colleagues. I rise in support of LB713. I want to thank Senator Vargas for his thoughtful work on putting this bill together and thinking about the long-range planning of this institution, particularly in light of term limits and the turnover that we have in this body, I think it's important for us to be thinking about ways that we can take the long-term vision and structurally set up the body for success in that regard. It's one of the two Exec Board priority bills this year and it came out with any opposition votes, so I'd also encourage you to vote green on LB713. Thank you, Senator Vargas, and thank you, Mr. President.

SCHEER: Thank you, Senator Hilgers. Seeing no one else in the queue, Senator Vargas, you're welcome to close on LB713. He waives the closing. The question before us is advancement of LB713 to E&R Initial. 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: LB713 is advanced. Next item is LB316. Mr. Clerk.

ASSISTANT CLERK: LB316 introduced by Senator Kolterman. (Read title.) This bill was introduced on January 16 of this year, referred to the Banking, Commerce and Insurance Committee, placed on General File with committee amendments attached.

SCHEER: Thank you, Mr. Clerk. Senator Kolterman, you're welcome to open on LB316.

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KOLTERMAN: Thank you, Mr. President, and good morning, colleagues. Today, I ask for your support of LB316, and more importantly AM778, which Senator Williams will be introducing shortly. I'd like to thank Senator Williams for making this a committee priority. LB316 was introduced on behalf of the Pharmacist Association to address concerns their members have regarding their contractual relationship with pharmacy benefit managers. After working with the committee, we have pared down the bill to prohibit PBMs from containing gag clauses and claw back provisions in their contracts with pharmacies in their network. The committee, as Senator Williams will explain, decided to remove the majority of the provisions, as we know next year there will be model legislation that will be provided by the National Association of Insurance Commissioners in the near future for the state to adopt that the items that are addressed in the original bill. But while we wait for the model legislation from the national level, we believe it's in the best interest of our constituents in the small town pharmacies to move forward with the provisions in AM788. LB316, as amended by AM778, was supported unanimously out of the committee. With that, I thank you and urge you to vote green for AM778 and LB316. Thank you.

SCHEER: Thank you, Senator Kolterman. As the Clerk mentioned, there are committee amendments. Senator Williams, as Chairman of the Banking Committee-- Banking and Insurance Committee, you're welcome to open on AM778.

WILLIAMS: Thank you, Mr. President, and good morning, colleagues. And first of all, I would like to thank Senator Kolterman for bringing LB316. During my five years on the Banking Committee, this has been an issue that we have addressed a number of times and Senator Kolterman worked diligently to find a solution and a compromise that worked with everyone. Committee amendments were brought to the committee by Senator Kolterman. AM778 would become the bill and would parrot down to, as he stated, only two substantive matters from the original bill, those are gag clauses and the claw backs. It should be noted that the addition of the committee amendments will also eliminate the fiscal impact of the original bill. First, LB778 addresses the claw backs and provides that a contracted pharmacy shall not be, one, prohibited from, or two, subject to penalties or removal from a network for sharing information regarding the cost, price, or copayment of a prescription drug with a covered individual. Also a pharmacy benefit manager shall not prohibit or inhibit a contracted pharmacy from discussing any such information or from selling a more affordable alternative to a covered individual. Second, LB778 addresses the claw back issue. It provides that a health insurer shall not require a covered individual to pay for a drug in an amount that exceeds the lesser of, A, the covered individual's copayment, deductible or coinsurance for such prescription drug, or, B, any amount an individual would pay for such prescription drug if the individual paid in cash. The rest of the committee amendments are relevant definitions that had been in the bill as introduced. With these committee amendments in hand, the bill advanced on an 8-0 vote and was designated as a

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committee priority. I would urge your adoption of AM778 and the advancement of LB716 to Select File. Thank you, Mr. President.

SCHEER: Thank you, Senator Williams. Returning to floor discussion. Seeing none, Senator Williams is welcome to close on AM778. He waives closing. The question before us is adoption of AM778 to LB316. 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 committee amendments, Mr. President.

SCHEER: AM778 is adopted. Returning to floor discussion. Seeing none, Senator Kolterman, you're welcome to close on LB316. He waives closing. The question before us is the advancement to E&R Initial of LB316. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

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

SCHEER: LB316 is advanced. Next item is LB218. Mr. Clerk.

ASSISTANT CLERK: LB218 introduced by Senator Lindstrom. (Read title.) This bill was introduced on January 11 of this year, referred to the Revenue Committee, placed on General File with committee amendments attached.

SCHEER: Thank you, Mr. Clerk. Senator Lindstrom, you're welcome to open on LB218.

LINDSTROM: Thank you, Mr. President. Good morning, colleagues. I bring to you LB218 to redefine tangible personal property and gross receipts for tax purposes. LB218 would exclude electrical generation, transmission, distribution and street lighting structures or facilities owned by a political subdivision from being defined as tangible personal property. The idea for this bill came to me by representatives from our public power community to address an issue they have encountered with a reinterpretation of state statute by the Department of Revenue that redefined poles and power lines to be treated as personal property instead of real property, and subsequent sales tax audit for the period of January 1, 2013, to December 31, 2015, whereby pole attachments revenue was deemed taxable. The amount was approximately \$4.2 million per year. In addition to the NDOR determined that the pole lease revenue from telecommunication attachments was subject to sales tax on the basis that the utility companies are leasing personal property. This reinterpretation resulted in an increase in sales tax collection to OPPD and other

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public power entities that, in turn, is passed on to the consumers across the state. While leases of tangible personal property are taxable, lease for real property are not. Nebraska's public power utilities property collects and pays all sales tax due and owing, but have never in over 40 years of operation paid sales tax on the lease payments made to the communities. It's a new classification of distribution, utility infrastructure, as personal property stands. It would significantly increase the cost to the consumers. The main concern I have in regards to this particular situation is the uncertainty this reinterpretation by the Nebraska Department of Revenue creates and the precedent set by changing the statute and retroactively applying it. When a utility such as OPPD has charged sales tax on labor to work on their infrastructure under the department's reclassification, OPPD will have to pass this tax on to their consumers since they are not-for-profit political subdivision of the state. OPPD has also-- also has to charge those same customers sales tax on the electrical service provided. Therefore, OPPD customers will pay a double tax with this reclassification from the department. LB218 will provide an important clarification for the exemption status of our public power industries. LB218 was heard in Revenue on February 22, 2019. There was no opposition to the bill, and it advanced to General File with committee amendments, AM536, receiving 7 ayes and 1 present and not voting. I would like to thank Speaker Scheer for the priority designation and ask for your green vote on both AM536 and LB218. Thank you very much.

SCHEER: Thank you, Senator Lindstrom. As the Clerk noted, there is a committee amendment from the Revenue Committee. Senator Linehan, as Chairman of the committee, you're welcome to open on the amendment.

LINEHAN: Thank you, Mr. President. Good morning, colleagues. Senator Lindstrom gave you some background information on this issue. He also explained what he's trying to accomplish with this bill. Under the green copy of the bill, the sales and tax definition of tangible, personal property was changed to exclude electric generation, transmission, distribution, and street lighting structures or facilities owned by a political subdivision of the state, thereby making these items exempt from sales and use tax. The amendment just flips the issue around and adds that these types of property-- adds these types of property to the definition of real property, thereby accomplishing the same results but in a different manner. The amendment also adds language to include property owned by the public power industry as defined in Section 70-601 to make certain we have included all the public power. With that, I ask your support of the committee amendment and the underlying bill. Thank you.

SCHEER: Thank you, Senator Linehan. Going to floor discussion, Senator Groene, you're recognized.

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GROENE: Thank you, Ms. Stinner [SIC]. I'm not doing a filibuster. I'm explaining why I voted no. Public power really is a quasi, public, private entity. It works as a private entity and we used to brag we had the lowest rates in the nation. We don't. There are for-profit power companies in the nation who actually have lower rates who pay dividends, who pay a lot more of employee costs, but somehow can provide electricity for less money, which I still haven't figured out. I understand the rural and the customer-base, but they act almost private with eminent domain and then some other things they have powers that-- long story short, they don't participate a lot. All of their employees, all of their industry, all of their vehicles to support public infrastructure, other than electrical, they don't help with the roads. They don't help with the schools. They only pay 5 percent of their gross revenues in lieu of tax. They can pay the sales tax on-- what they're paying is when it becomes personal property, then they have to pay sales tax on the light poles, the transformers, the lines. And when they sell electricity or run electricity for, let's say, Kearney or Columbus or some of the cities, Kearney for sure, who they provide services to, they're selling something and there's sales tax on the lease. The Revenue Department for some reason, I understand the reason we can't get an answer from them, why they did it, suddenly is, probably has something to do with an audit. And when they did the audit they read the regulations and decided, hey, this should be personal property by definition, and we've overlooked it for a long time. This is a revenue stream that we could latch on to because folks, they need to participate too, and the excuse that they'll just pass on the cost, well, guess what, folks? Every single private enterprise who pays high property taxes and income taxes, and collects sales taxes and pays sales taxes, pass it on to you, the consumer. That is not an excuse. The reason we all pay taxes is because we like schools, we like public infrastructure, we like-- we like public safety, and, folks, we're one of the highest in the nation per capita government employees, and part of that is because all of the public power employees are considered public employees. We have too much of our industry, too much of our state that is public or nonprofit, and the rest of us are paying. We only start with 2 million, when you start chipping away at who doesn't pay, and who works for what company or entity that doesn't pay taxes, the rest of us pay quite a bit. It's got to stop. Public power can pay this and if you've been around-- I am a big fan of public power because of the makeup of our state, but, hey, enough's, enough. We're not a saint or whatever you want to call them, do-gooding companies. Mr. Pope gets paid well. The employees are paid well. Some of us work for companies who pay taxes, and we have to work a little bit harder to make up the taxes and still get paid well. This is an opportunity for them to participate, to support the schools.

SCHEER: One minute.

GROENE: Support the schools, support public safety, help patch the potholes and the roads their trucks run on. Maybe if they did that, they'd have a little bit more concern about how high taxes are, how high the property taxes are in this state, the sales taxes. They can be a good citizen and pay some taxes besides they're in lieu of tax. That's where I come from, and that's why I voted no in committee. Thank you.

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

ERDMAN: Thank you, Mr. Speaker. Good morning. I listened to what Senator Groene had to say, and he may have answered part of my question, but I would like to ask Senator Lindstrom a question if he would yield.

SCHEER: Senator Lindstrom, would you please yield?

LINDSTROM: Yes, I will.

ERDMAN: Senator Lindstrom, you made comments in your opening statement about the Revenue Department changed their structure so that these utilities now have to pay the sales tax. Did I hear you say that?

LINDSTROM: Yeah, they reinterpreted what's been done for 50 years. The interpretation is that they were classified as real property or treated as such.

ERDMAN: Okay.

LINDSTROM: The Department of Revenue looks at it differently now in the last couple of years. So it changed in mid-game really.

ERDMAN: So had you talked to them, have you visited with them to see why they made that interpretation all of a sudden?

LINDSTROM: Well, they were sitting in the audience during the hearing and not one person came up to talk about it from that particular-- from the department, so. I don't know if they would give us an answer anyway. But no, I personally have not talked to them about this and I don't think they could disclose that.

ERDMAN: Okay. I understand. And I'm not saying that's your job to talk to them, I just thought maybe you might have done that. You know as you look at this and you see the fiscal note, I think it said something like, at 1.6 million this year lost in revenue, and then 1.8, and then whatever it was after that. Have you seen that as well, Senator Lindstrom?

LINDSTROM: I have and like I said before, the last couple years is when they charged the sales tax. Before, for decades, they never did it before so we're just trying to clarify the

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reinterpretation because it hasn't been that way for a long time. But yes, I did see it as potential loss of revenue but that's a stream that wasn't being collected for the longest time and then with the reinterpretation, then now we obviously have a fiscal note.

ERDMAN: So when you read that fiscal note and you look at that, you automatically assume, and you know what you do when you assume, but anyway you make the assumption that it is going to be revenue that is going to be lost but the fact is we never collected it, would you agree with that?

LINDSTROM: I would agree with that.

ERDMAN: The Revenue Department has, as you may agree or may not agree, over this cycle, this session, put several fiscal notes on bills that don't make a lot of sense. So it appears this may be another one of those instances, but it is peculiar to see what the fiscal notes are on some of these bills and we just can't seem to get any answers. But I appreciate your answering my questions. Thank you.

SCHEER: Thank you, Senator Erdman and Senator Lindstrom. Senator McCollister, you're recognized.

McCOLLISTER: Thank you, Mr. President, and good morning, colleagues. Having served on a utility board for 30 years, I have some background in this argument that Senator Groene raised and I'm sympathetic to at least studying the issue. Actually the Platte Institute did a study on it three or four years ago privatizing some of the electric utilities in the state and there's some problems associated with doing that. Let's assume that we decided to privatize those utilities, who would you pay? That would be a problem and it would be a lot of money, obviously. Second thing is, those utilities, NPPD, OPPD, MUD, you know, they generally have rates that are about 15 or 20 percent lower than the national market. So I always figure that as long as those rates stayed low, that we could very well justify having publicly-held utilities. But this has been a good discussion and I welcome it and I would hope that we could move AM536 and then vote green on LB218. Thank you, Mr. President.

SCHEER: Thank you, Senator McCollister. Senator Linehan, you're recognized.

LINEHAN: Thank you, Mr. President. I, too, just as Senator McCollister said, I have empathy for what Senator Groene is saying and maybe there's some things we should look at, but what this bill does is just put it back the way it was. To Senator Erdman's good question about whether we are really losing revenue, we're not. I don't think we want to get in the business of letting the

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departments change the rules in the middle of the game without any input from the Legislature. And if we're going to do that, then why do we come here every day and go to work? If we're going to change revenue, change the rules, change the way we collect taxes, and what we collect taxes on, that belongs-- that decision belongs to the Legislature. So with what, I would appreciate very much your green vote on the committee amendment and LB218. Thank you.

SCHEER: Thank you, Senator Linehan. Senator Moser, you're recognized.

MOSER: Good morning, colleagues. I appreciate Senator Linehan's comments about changing the rules in the midst of the game. I want to thank Senator Lindstrom for bringing this bill forward. I think it's an important thing for our public power. When Senator Groene said that they should pay sales tax, they are us. We have public power and what goes into the expenses of the power district wind up being collected back in their rates. Our public power has had a long-term look at keeping electricity rates as low as possible and being able to provide power at all required times. And part of that long-term outlook is sometimes hedging your bets a bit and picking things that are sustainable over a long time versus buying power on the open market. There's a current glut of power in the marketplace and it's reducing the comparable rates. And when the power glut is finally-- that slack is finally taken up, we'll look even better because I think that we will be immune in some ways in Nebraska because of our public power system from some of those rates when they do go up. Incorporating a sales tax into a power rate increases the power rate. It makes the electric rates higher. It hides government tax income in electric rates. Electricity is a need, in my opinion, where some sales taxes are discretionary. So for these reasons I support AM536 and I support LB218. Thank you, colleagues. Thank you, Chair.

SCHEER: Thank you, Senator Moser. Seeing no further discussion on AM536, Senator Linehan, you're welcome to close on AM536. Senator Linehan waives closing. The question before us is adoption of AM536 to LB218. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

ASSISTANT CLERK: 40 ayes, 1 nay on the adoption of committee amendments.

SCHEER: AM536 is adopted. Returning to the conversation. Seeing no one in the queue, Senator Lindstrom, you're welcome to close on LB218.

LINDSTROM: Thank you, Mr. President, and thank you, colleagues, for the discussion this morning. Just a couple of things to point out. One, there is no fiscal note because the taxes were never collected. Ultimately, the customer does pay sales tax and then to just point out what the public power districts have done as far as schools or the payment in lieu of, 5 percent of gross revenues to counties in '17-18, they paid 33.3 million to schools. So just want to point that out.

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Again, thank you, and I appreciate the vote on the amendment and I would ask for your green vote on LB218. Thank you.

SCHEER: Thank you, Senator Lindstrom. The question before us is the advancement to E&R Initial of LB218. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

ASSISTANT CLERK: 38 ayes, 1 nay on the advancement of the bill.

SCHEER: LB218 is advanced. Next item is LB59.

ASSISTANT CLERK: LB59 introduced by Senator Cavanaugh. (Read title.) The bill was introduced on January 10th, referred to the Health and Human Services Committee, placed on General File with committee amendments attached.

SCHEER: Thank you, Mr. Clerk. Senator Cavanaugh, you're welcome to open on LB59.

CAVANAUGH: Thank you, Mr. Speaker. Good morning, colleagues. Today, I introduce LB59 which establishes time lines for investigations into allegations of abuse or neglect of a child placed in a licensed group home, or a complaint about the group home itself. LB59 would require that if an allegation is made, the department must decide within five business days whether or not to conduct an investigation. If an investigation is conducted, a report must be issued within 30 days of that determination. I brought this bill because a report issued in 2017 by the Inspector General of Nebraska Child Welfare, which found a shortcoming with regards to investigations of allegations regarding sexual abuse of children at residential facilities. The Department of Public Health issued zero reports on these allegations between 2013 and 2016. There were no reports on investigations of substantiated or unsubstantiated cases of sexual assault of children at licensed residential facilities. Furthermore, there were not records of investigations even being conducted. The Inspector General recommended the adoption of clear, defined time lines on the tracking and investigation of these allegations. And that is precisely what LB59 seeks to do. We owe it to our children to take these allegations seriously and ensure we are holding everyone responsible for them accountable. Establishing clear investigation and reporting deadlines is an important step in that process. I'm grateful to Speaker Scheer for prioritizing LB59, which passed out of the HHS Committee unanimously with a committee amendment, AM622. This amendment addresses the concerns of the Department of Health and Human Services about the length of time allowed for an investigation. I worked with Deputy Director Klein with the department to establish a time line that would be more reasonable for the department. The amendment changes the 30-day deadline to a report-- for a report to 60 days

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with the option to extend to 90 days if the department issues an interim report. I ask for your green vote on LB59 and AM622. Thank you.

SCHEER: Thank you, Senator Cavanaugh. As the Clerk noted, there is a committee amendment from the Health and Human Services. As Chair, Senator Howard, you're welcome to open on AM622.

HOWARD: Thank you, Mr. Speaker. Good morning, colleagues. AM622 extends the time lines for reporting by the department and addresses their concerns. Under AM622, the department has 60 days rather than the 30 in the green copy to issue an investigation report after the determination is made to investigate. However, the department may have 90 days to file their report if an interim report is filed within 60 days. The committee amendment was adopted by the committee unanimously and I would urge its adoption on the floor today. Thank you, Mr. President.

SCHEER: Thank you, Senator Howard. Senator McCollister, you're recognized.

McCOLLISTER: Thank you, Mr. President. Wondering if Senator Cavanaugh would yield to a few questions.

SCHEER: Senator Cavanaugh, would you please yield?

CAVANAUGH: Yes.

McCOLLISTER: Although not directly related, wondering if you can give me an update on untested rape kits that have occurred in Omaha and throughout the state. I think even Lincoln had some untested rape kits.

CAVANAUGH: Well, I know that we have an enormous backlog of untested rape kits. I don't have much more of an update than the fact that they're not being tested.

McCOLLISTER: Well, I think that's something that we need to deal with.

CAVANAUGH: I would agree.

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McCOLLISTER: And, you know, I reviewed this situation a couple of years ago and I thought we were pretty much up-to-date at least for the state lab, but I've heard that Omaha is behind on its testing. And maybe there are some other jurisdictions as well, perhaps Lincoln, so.

CAVANAUGH: Omaha is significantly behind, I believe.

McCOLLISTER: Can you repeat that?

CAVANAUGH: Omaha is significantly behind on testing, or Douglas County is behind.

McCOLLISTER: Well, I just simply want to put this on the record so we could give them notice that they need to get up to date on those kits.

CAVANAUGH: I appreciate that. We should be looking at the time lines for those as well as this.

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

SCHEER: Thank you, Senator McCollister and Senator Cavanaugh. Senator Albrecht, you're recognized.

ALBRECHT: Thank you, Speaker Scheer. Would Senator Cavanaugh yield to a question?

SCHEER: Senator Cavanaugh, would you please yield?

CAVANAUGH: Yes.

ALBRECHT: Hi. Thank you. You said they did not report anything for three years? Is this DHHS?

CAVANAUGH: That's correct.

ALBRECHT: So were there actually no issues out there?

CAVANAUGH: No. They just didn't issue any reports.

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ALBRECHT: So is there a reason that they didn't? I mean that you know of that you can help me understand?

CAVANAUGH: I believe it wasn't required that they do it in any sort of time line, timely matter.

ALBRECHT: Anything to do with the privacy of names or facilities? Or, I mean, I can't imagine why they wouldn't have reported at all.

CAVANAUGH: The department did not have any objection to issuing reports. Their only initial objection to my bill was that the 30 days was too short of a time for them to do a report because they oftentimes work with the police and they have to wait until the police investigation is concluded, if that's the case. And so they ask for the 60 days with the 90-day extension. They did not explain why a report had not previously been issued but they were happy with this amended bill.

ALBRECHT: So that was when Department of Health and Human Services came before you, they really didn't dispute a time line of when you would like it done. Did they have any other reason that they would not-- were an opponent?

CAVANAUGH: No, I spoke with Deputy Director Klein in advance of the bill hearing and his issue with the green copy was the time line. And I asked him that if I addressed the time line if that would be suitable and he agreed to that. And I asked him what time line he would like it to be and this is the time line that he told us. So I didn't actually come up with the amended time line, that came from the department.

ALBRECHT: That's great. Okay, so just one more question, just-- I can't imagine that they weren't doing something and maybe just not reporting it, but how about 2017 and 2018? Do we have any records of-- at that time?

CAVANAUGH: As far as I know, we do not, but I can find that out for you.

ALBRECHT: Yeah, that's interesting to me that they wouldn't have.

CAVANAUGH: I don't think they weren't doing investigations, they weren't issuing the reports.

ALBRECHT: Okay. As to how many. We don't need to know all this--

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CAVANAUGH: Right.

ALBRECHT: Okay. Very good. Thank you for bringing the bill.

SENATOR CAVANAUGH: Thank you.

ALBRECHT: Thank you very much.

SCHEER: Thank you, Senator Albrecht and Senator Cavanaugh. Seeing no one wishing to speak, Senator Howard, you're welcome to close on AM622.

HOWARD: Thank you, Mr. President. I just wanted to clarify some of the issues that were brought up during the discussion. This issue around timeliness for investigations of reports of children in residential facilities, or sometimes they're called group homes, came from the Inspector General. So in 2013 and between 2013 and 2016, there were two sexual abuse cases in privately-run group homes licensed by the Department of Health and Human Services. And there were nine critical incidents related to sexual abuse at residential facilities. And these were either run or licensed by the department. And because of these cases, they-- the Inspector General determined that the department's role in preventing and responding to youth sexual abuse at residential facilities, specifically at the residential facility administered by the department and privately run facilities, but we needed to have a better time line as a Legislature to know what was happening. And so what we were seeing were investigations and reports that didn't come for several months, several-- maybe a year, and so this gives them a very clear time line when there's been an incident, especially one relating to sexual abuse of children in a group home facility. And so I would urge the adoption of AM622 to LB59. And I thank you, Mr. President.

SCHEER: Thank you, Senator Howard. The question before us is the adoption of AM622 to LB59. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

ASSISTANT CLERK: 42 ayes, 0 nays on the adoption of committee amendments.

SCHEER: AM622 is adopted. Seeing no one left to speak in the queue, Senator Cavanaugh, you're welcome to close on LB59.

CAVANAUGH: Thank you, Mr. Speaker. I'd like to address Senator McCollister's questions briefly. According to End The Backlog, Nebraska has no statewide inventory of rape kits. The state is not committed to testing rape kits. The state has not mandated testing of rape kits and

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legislation is pending as far as granting victims' rights to notice and to be informed. And there's no tracking system for rape kits, which is all extremely disappointing and something that this body should definitely address. And with that, I would say that one thing we can address today is making sure that at least the children that are supposed to be protected by the state are protected, and that this report-- these reports are issued in a timely manner. With that, I would encourage your green vote on LB59.

SCHEER: Thank you, Senator Cavanaugh. The question before us is advancement of LB59 to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

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

SCHEER: LB59 is advanced. Next item is LB514. Mr. Clerk.

ASSISTANT CLERK: LB514 introduced by Senator Morfeld. (Read title.) This bill was introduced on January 22, referred to the Judiciary Committee, placed on General File with no committee amendments.

SCHEER: Thank you, Mr. Clerk. Senator Morfeld, you're welcome to open on LB514.

MORFELD: Thank you, Mr. Speaker. Colleagues, LB514 is a cleanup bill to existing statute found in Chapter 26, Section 611 that was brought to me by the Nebraska State Treasurer and his State Disbursement Unit. The Nebraska State Disbursement Unit processes approximately 2.8 million transactions a year totaling \$300 million. Understandably, the State Disbursement Unit incurs bad debt due to nonsufficient funds, account closed checks, or electronic funds transfer. Since the inception of State Disbursement Unit in 2001, the office has worked on strategies to eliminate bad debt, prevent bad debt, and to improve the processing of child support payments. I believe LB514 will further assist the office by working to completely eliminate bad debt by providing further resources to better deter that bad debt and recoup monies errantly disbursed as a result of bad debt, particularly with child support or spousal support, which is what this includes in existing statute. I urge your adoption of LB514, and thank the Speaker for the Speaker priority. Thank you.

SCHEER: Thank you, Senator Morfeld. Seeing no one wishing to speak, Senator Morfeld, you're welcome to close. He waives closing on LB514. The question before us is advancement of LB514 to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

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ASSISTANT CLERK: 39 ayes, 0 nays on the advancement of LB514, Mr. President.

SCHEER: LB514 is advanced to E&R Initial. Next item, Mr. Clerk, LR14CA.

ASSISTANT CLERK: LR14CA was introduced by Senator Wayne. (Read title.) The resolution was introduced on January 23rd, referred to the Urban Affairs Committee. That committee placed the bill on General File with no committee amendments.

SCHEER: Thank you, Mr. Clerk. Senator Wayne, you're welcome to open on LR14CA.

WAYNE: Thank you, Mr. President, and members of the Legislature. First, I must actually apologize. I thought based off of our calendar, we would probably get here tomorrow. And I even had this conversation with the Speaker, so I was going to go around today and talk to everybody about this bill, but we are already here, so we'll have an on the mike conversation about this bill. LR14CA would propose a constitutional amendment to Article VIII, Section 12 of the Nebraska Constitution which authorizes TIF financing. And please listen carefully because a lot of definitions that I want to make sure we understand what's going on. For a little history about TIF. TIF was authorized in 1978, which the Nebraska voters added language authorizing TIF to our Constitution. Under the Community Development Law, municipalities can utilize TIF for the redevelopment of properties that have been deemed substandard and blighted. As applied, TIF allows municipalities to issue bonds to pay for the cost of redevelopment projects based on the projected increase in property taxes that the new development creates. Property tax revenues based off the value of the property prior to the development, the base, continue to flow to the political subdivision. Let me repeat that. The property at the base continues to flow to the political subdivision. It's only the increased value that is not going to the political subdivision for 15 years. After 15 years when the bonds are paid off, the increased property tax revenue then starts to revert to the city's general fund or other political subdivisions that have property tax levy on the property within the development area. While many of the details on how TIF operates are laid out in statute, there are certain provisions in our Constitution. Among those provisions is the language that limits TIF to only 15 years. Under LR14CA, the Legislature will authorize and extend the maximum length of time for repayment of TIF-related indebtedness from 15 years to 20 years if more than one-half of that property in the project area is designated as extremely blighted. That's a different definition. My goal in introducing LR14CA was to encourage the use of TIF in extreme blighted areas. In Omaha, Lincoln, there are a handful and a handful of Nebraska communities that are pockets that are undoubtedly meet the definition of substandard and blighted for purposes of TIF, but struggle to tax developers. And I'll give you a real life definition or example. So right now in Omaha, we treat Crossroads which is TIF on 72nd and Dodge the exact same as you would treat my community. So from a developer standpoint, the risk obviously is higher in my community for multiple reasons, so they decide not to develop but

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will develop in 72nd and Dodge. If anybody has been to Aksarben, that is blighted. Doesn't seem blighted to me, but it is. So people will develop in 72nd and Pacific, 72nd and Dodge, rather than north and south Omaha. What we are trying to do is treat those communities differently and they have to meet a special designation. The special designation, and I can go through some more history if I get asked some questions, but the special designation is really constraining the use of TIF. So some of my conservative colleagues who don't like TIF, understand, this is actually putting constraints around TIF that the definition of extremely blighted is, --and let me get to my notes so I read it completely right --you have to have 200 percent of poverty --no, 200 percent of poverty, unemployment rate, let me repeat. Here it goes, right here. Sorry, I found my the spot. The average rate of unemployment in the area of the most census tract is 200 percent average unemployment rate in the state and also has to have an average poverty rate that exceeds 20 percent. So when you look on this map that is handed out, it's only the red areas. Only the red areas. So even if the city wants to try to do an extremely blighted somewhere else, it has to meet the definition of extremely blighted that was passed in Senator Stinner's bill, LB496, a couple of years ago, which meets that requirement of exceeds 200 percent of unemployment and poverty that exceeds 20 percent. Now why is this important? Well, from a national standpoint if you look at the smaller map, you'll see that we have one of the most restrictive TIF uses in the country. We and Montana are the only states that have 15 years or lower. And just from just a practical purpose, Montana actually waives their 15-year requirement and gives another 10-year requirement on almost every project. We have not been able to find a project that they limit it to just the 15 years. So what we're trying to do is bring us up-to-date with most states around us. As you can see in the national map, including the states that are around us, around 23 to 26 years from South Dakota, Iowa, and Kansas, but we're even putting greater constraints around it to make sure it's not abused. And again, it has to meet that definition of the average unemployment rate in the census tract for at least 200 percent and 20 percent of total poverty and above. That is a very, very tight definition that will make sure it's not abused. I would also note that I introduced this bill as the companion bill to implement the proposed amendment. So those who want to see how this will work, go to LB648 and you can see how this bill would hypothetically work. Now, obviously, LB648 was not advanced out of the committee because as it currently is, it would be unconstitutional because we haven't authorized 20 years. But this gives you an idea of how we can do this as a Legislature. The underlying goal of LR14CA is to spur the use of TIF in those areas that need it the most. To demonstrate this again, Senator Dave Landis came in and talked and he said if he were here to tell his grandson that he would give him a dollar to run from his house to the corner, or alternatively, he would give him a dollar to run around the block, he's going to run to the corner every time. And that's what we're currently doing with TIF. We are treating 72nd and Dodge the same as we do north Omaha. And there's also, if you look at the big map, you will see other areas in Scottsbluff, North Platte, other areas, Thurston County, who right now should be treated differently but are not allowed to. So we're really lacking in the investment that's needed to rebuild these communities. That's all this constitutional amendment does. And with that, I will answer any questions and just so you know, this was voted out

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unanimously 7-0 out of the committee, and I would ask for a green vote so we can go to Select File on this. Thank you, Mr. President.

SCHEER: Thank you, Senator Wayne. Senator Groene, you're-- excuse me, if I can interrupt just a moment, Senator Groene. (Visitors introduced.) Again, my apologies, Senator Groene, you're now recognized.

GROENE: Thank you. I stand in opposition to LR14CA. A couple of reasons and I'll ask Senator Wayne some questions. But his extremely blighted definition that just took part, less place and passed less than six months ago, was put into law, no city has defined that area yet. And no city has defined a extremely blighted area. It is so new that we don't even know if it works or if it will work. Number two, that bill he mentioned last year was for work force housing. This --adding this to the Constitution opens it up for every commercial --anything. Factory, commercial, that they could use TIF for 20 years in an extremely blighted area. And here's the big --Senator Wayne, would you answer a question?

SCHEER: Senator Wayne, would you please yield?

WAYNE: Yes.

GROENE: Senator Wayne, let me give you a scenario. There's a cornfield or an open lot on the edge of the good prime property and next to it is what you consider is an extremely blighted area. So the city goes in with 51 percent of the area being extremely blighted and the other 49 percent is prime property and a huge corporation comes in and says, we want to build here and we want 20 years. What's going to stop the city from saying, all right, we'll draw an odd, --we'll gerrymander an area where we get some extreme blighted, but we'll include that nice prime piece of property in it and because it's part of the 49 percent, we're going to give them 20 years in TIF. Would that happen? Could it happen?

WAYNE: That would only happen if it was in the same census tract.

GROENE: But could it happen?

WAYNE: I have a hard --no, I don't see a situation where there's 200 percent unemployment and exceed 20 percent poverty which there is a prime piece of land and a prime development already going in the same census tract.

GROENE: Explain to me your definition of a census tract.

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WAYNE: That's federally defined as --there's multiple census tracts and it's federally defined and we do it every 10 years. I don't have the exact definition of a census tract, but we use in the language we've already passed, we use the census tract that's done every 20 years.

GROENE: Excuse me, another question. Why didn't you put 100 percent of the area is extremely blighted?

WAYNE: Because, Senator Groene, after working with you for two years on TIF, I agree with you, we need to put some constraints around it and the only way that I think we can do that is by adding the definition of unemployment and high poverty to make sure it doesn't get abused and go outside of those current census tracts.

GROENE: Are you not defining in the Constitution based on a statute a definition? Should not the definition itself be in the Constitution?

WAYNE: Well, the current Constitution doesn't have a definition in it. The current Constitution definition of TIF is actually found in statute. So we are continuing what's already been done.

GROENE: I stand in opposition to this bill. It's not necessary. Most of the TIFs that are out there are under 15 years now. You are taking property off the tax rolls for 15 years now. Most of the TIFs aren't that many years because we have some good people in some communities who do restrain it, city councils who do restrain it to public purposes. This crosses the line where we're putting a statute--

SCHEER: One minute.

GROENE: --taking a statute that defines that it can only be used in extremely blighted areas for work force housing and putting it into the Constitution and opening the gates up for everything. And on 49 percent of the ground area that's designated, could be prime real estate and the corporation comes to town and the economic development guys are sweating and says, let's call this extremely blighted. They don't even have to have 51 percent, just claim it's extremely really blighted. They do it now and they'll do it again. Thank you.

SCHEER: Thank you, Senator Groene and Senator Wayne. Senator Erdman, you're recognized.

ERDMAN: Thank you, Mr. Speaker, and good morning, again. I see the map that Senator Wayne passed out for the maximum length allowed for tax increment financing. And I always wondered why people moved to Arizona, but now I see. They're the only state that doesn't allow TIF.

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Maybe that's where I need to move to. It's amazing. So we talk about extremely blighted and we applied TIF for those areas that are blighted, and so a cornfield west of town that has been farmed for the last 100 years, all of a sudden becomes blighted. No clue how that happens, except the city council wanted that annexed into town and now we're going to designate it blighted. In my district there are communities that designate blighted areas and some of those blighted areas include new buildings less than ten years old. It's what the city council wants. I don't know that there's any restriction from how you use TIF and I know what the statute says and how it should be applied and TIF has a provision that says, "but for" TIF. So when you ask the question, what does that mean? Here's what it means. You go to the contractor or the developer and you ask a question. The question is, if you don't get TIF financing, are you going to build this property? And the answer is no. So that's the "but for". That's not what that means. It's supposed to mean that they couldn't afford to build the property so they needed the TIF financing to accomplish it. So maybe what we ought to do is just eliminate the time limit and just let it run forever. These tax giveaways are a problem for us and the reason that we need TIF is because our tax system is so jacked up and is so high that nobody wants to build anything new unless we give them some kind of a tax break. This is extremely puzzling to me on how we can continue to do what we do and give tax breaks to everybody for everything. And I have a couple of questions for Senator Wayne if he would yield.

SCHEER: Senator Wayne, would you please yield?

WAYNE: Yes.

ERDMAN: Senator Wayne, tell me where do I find the definition for extremely blighted?

WAYNE: I don't have the exact section. I'll give it to you but last year we passed it in LB496 last year. I'll get you the exact section.

ERDMAN: So, Senator Wayne, do you know of TIF projects that are used for economic development?

WAYNE: Yes.

ERDMAN: And in your opinion, is that the correct use of TIF?

WAYNE: Yes and no. Yes, because if it is rebuilding the community under the Community Development Law, yes. If it is strictly --strictly for just economic development, I would agree with you, no.

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ERDMAN: Okay. So if you have a nice facility, a good building, functional building that is of no need of repair and you declare that a blighted and slighted area and tear that one down and build a bigger one, is that a correct use of TIF?

WAYNE: If the project or the building itself could not be saved, yes, and if there's a lack in investment that have occurred, yes. But that doesn't happen underneath my bill. My bill is different.

ERDMAN: Okay. But the point I'm trying to get to is, TIF is used extremely often, quite often for economic development. It was never intended to be economic development. It was redevelopment. It was for that blighted area in your city or your community--

SCHEER: One minute.

ERDMAN: --that had buildings that were bad and they needed to be tore down or rebuilt. That's not what we're using it for. We use TIF for everything you can think of. And I've talked to people who take advantage of TIF and ask them the question, if you didn't get TIF, would you build this facility? Oh, no, not a chance, no. If I don't get TIF, I'm not building this. You see they get about a two percent return back on their investment with TIF, so if your mill levy is over two, that's what you get back. This is amazing. I don't see any need for LR14CA and I will be voting against that bill. Thank you.

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

ALBRECHT: Thank you, Speaker Scheer, and I want to really get into this bill because I was at the hearings talking about TIF projects and how Senator Wayne --you know, he had everybody come in that actually used TIF over the last several years. Some of them were blighted. Some of them weren't and I was excited to see that he was --his committees and his interim studies were looking into this. But if he could just yield to a few questions.

SCHEER: Senator Wayne, would you please yield?

WAYNE: Yes.

ALBRECHT: Okay, you said we're going to take care of this on the floor, so let's get to it.

WAYNE: All right.

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ALBRECHT: Okay, so you're asking us on this LR14 to bring the cart before the horse because we need to have LB648 out of your committee approved before we could marry it to, if you will, this particular bill?

WAYNE: No, what I'm saying is that without constitutional authorization we can't have LB648 or any other project around how TIF, extremely blighted, works.

ALBRECHT: Okay. So if --where in the constitutional amendment would it be who actually is the one that checks to make sure that it's 200 percent poverty level --or 20 percent poverty level and 200 percent of the area is poverty. Who --is it the economic development team, is it just written in statute and you hope that they follow it, and if they don't, is there anything that happens to the people that maybe take advantage of a cornfield or something else?

WAYNE: So, right now in our Constitution the municipalities are the ones who are authorized and have the final say in TIF, not even us as a body. We go in and we define what current substandard and blighted areas are in statute. So we're using the same process by saying, we're going to add extremely blighted for 20 years and we'll define that in statute, but ultimately it is the municipalities who approve and disapprove those projects.

ALBRECHT: So if they do that themselves already and they have shown us if they are going to have a project, they're pretty much going to ignore everything that we have asked them to do and go forward anyway. I mean, that's kind of what I see here. I understand that you want certain things to happen but I guess I don't see that if it's not spelled out, that if they don't follow this, what's going to happen to them?

WAYNE: So currently in statute, and this is a great question. I appreciate it. So currently in statute, and all you have to meet is one out of nine factors. What we're saying in the statute is that we've already passed what Senator Stinner is, you have to meet two requirements and you have to meet both of them, 200 percent of unemployment and more than 20 percent of poverty which is federally defined in our census tracts. So there's no way that a municipality could quote, unquote, abuse this scenario as they currently do because they can pretty much find one or two definitions right now underneath the statute. The way we've defined this, they won't be able to go outside those census tracts.

ALBRECHT: So when you had LB648 in your committee, was there any opposition from the cities on LB648?

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WAYNE: I don't believe so, but I will double-check the record. I don't believe there was any opposition on LB648.

ALBRECHT: And that's where my concern is for this particular bill because if LB648 for some reason--

SCHEER: One minute.

ALBRECHT: --doesn't pass, how would it affect this bill?

WAYNE: So the only --so LB648 won't pass. It won't go anywhere. We need to have the constitutional amendment first. I was correct that LB648, NACO did testify in opposition because of the property tax issue, but LB648 doesn't need to pass. LR14 has to pass before we can do anything else around extremely blighted. This is --so it's just like when we start a constitution in our state, we lay out the Constitution and then all our statutes come from our guiding document in our Constitution. So we're going to add the language extreme extremely blighted and we're going to go and define what that is and how that works and I'm providing a definition that's already in statute of those two things they have to meet.

ALBRECHT: Am I up yet?

SCHEER: 12 seconds.

ALBRECHT: Okay. I've got my light on because I still want to talk about this a little bit more, especially when it comes to the taxes for our schools. If you're already at 15 years and you want to extend--

SCHEER: Time, Senator.

ALBRECHT: Thank you.

SCHEER: Thank you, Senator Albrecht and Senator Wayne. Senator Williams, you're recognized.

WILLIAMS: Thank you, Mr. President, and good morning, colleagues. And I would, first of all, like to say a special thank-you to Senator Wayne for his willingness to step back and understand what TIF financing is. And I think if you go back a few years when Senator Wayne joined this

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body, his knowledge of TIF was somewhat limited, but through his work with Urban Affairs, through the hearings that he held all the across our state, and through his willingness to recognize and not come with a closed mind on TIF, he has recognized and understands how we can use this evolving tool. And I say evolving tool because we consistently get into a discussion about what is redevelopment, what is economic development, all of those kind of things, and I would tell you that our legislation is not static. Our communities and our needs and wants are not static. And, therefore, yes, tax increment financing has evolved into a very useful economic development tool, and believe me, it never does, never has taken property off the tax roll. Those that want to say that are misunderstanding how TIF works and they don't want to understand TIF works, rather it's just easier to be against it. We've had many projects across our state that would not have happened for TIF. Today, we've talked about LB496. Do not forget those of us that were here, LB874 which was passed which substantially updated and added additional factors controlling the use of TIF all the way from the hearing processes that communities have to go through to limiting that ability to use TIF. We've updated it. The Urban Affairs Committee heard this bill. There was no opposition testimony. For those that want to come in and complain about TIF, where were they. The committee voted this out of committee 7-0. This is the kind of future development that absolutely makes sense. Extending that period from 15 to 20 years in those areas that are extremely blighted makes sense. I have one of those areas in my legislative district in Lexington that is shown on Senator Wayne's map. We have these areas that need encouragement. We have housing shortages, we have work force development issues. All of those can be partially addressed by how we develop blighted areas in our community. I would strongly encourage you to, if you do not understand how TIF really works, take the half an hour or hour to sit down with Senator Stinner, like Senator Wayne did. Take that time to understand that no property ever comes off the tax roll. The only thing we're talking about is the TIF increment, the portion above the base tax. With that, I strongly encourage your green vote on LR14CA, and thank Senator Wayne for his insight into looking to our future. Thank you, Mr. President.

SCHEER: Thank you, Senator Williams. Senator Wayne, you're recognized.

WAYNE: Thank you, Mr. President. Colleagues, I really think we have to reiterate what Senator Williams just said about current taxes. So people get on the mike and they say taxes are taken off the property rolls underneath TIF and the school and the community doesn't get any tax benefits. That's just not true. Your current baseline tax, so if you're current --you're only getting a hundred bucks right now in a blighted area, that continues to flow to the schools, to the city, to the county. That never stops. What we're talking about is the increase, the projected increase value in taxes, the increased value of that land. So if I'm currently being taxed on \$1,000, that current tax still goes to the local school, the local city, and the local county and any other government MUD or metro or whoever else in that community. It still goes to the community college and everything. That doesn't change. But if I build a five-story building and the new tax value from all the

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estimators and everybody else that goes to the bank and says, that's going to increase to \$2,000, the \$1,000 tax base still goes to the local government. But in 15 years under current law, the \$2,000, the extra \$1,000 goes back into the coffer. So there is a 15-year gap in only the amount that is projected to increase in value. That's it. So this idea of TIF removing property off the tax rolls for our schools and everything else is just not true. It's the increased amount. Now, thanks to Senator Briese and thanks to Senator Groene, when we did our overhaul of the current TIF statute, we tightened what is called the "but for" test. We tightened that language because they pushed really hard and I agreed with them, and so did the entire committee, that we want to make sure that if you do a project, you-- the only time you're using TIF is "but for", you couldn't do it without it. And that bill passed with everybody here. We all agreed that strengthened it. So what does that mean? That means that a developer just can't walk in and say, I want to use TIF. No, it has to meet a "but for" test. And now we're taking it even extremely further. We're saying underneath this constitutional amendment, we are not going to treat all TIF the same. We are not going to treat Thurston County the same as a regular project in Omaha, that's 72nd and Dodge, because the odds are they'll come to 72nd and Dodge. But if we add an extra five years, it makes the financing easier for a developer when he's weighing his risk or she's weighing their risk. So again, if we treat two pieces of property, 72nd and Pacific around UNO. If you've ever been there, it's a growing area. If we treat that the same as what I have in my district on 30th and State, developers won't come because we're treating them the same. So we have to make it different and this is my opportunity and my way of saying, here's how we treat it different. And there will be new maps coming around of census tracts for all the areas that are red dots and how they actually apply to your local community. But on this map, don't get confused by the yellow and the green. Those are those areas that are close on the edge.

SCHEER: One minute.

WAYNE: We are only talking about the red areas. We are talking about a way to develop in our most blighted, extremely blighted areas, areas that would not otherwise be developed. And the issue is when you say it doesn't go on the property tax rolls, it may never have "but for" this new development. That's why it's called the "but for" test. I'm here all day. We can answer questions all day, and with that, thank you, Mr. President.

SCHEER: Thank you, Senator Wayne. Senator Groene, you're recognized.

GROENE: Thank you, Mr. President. Let's make it clear. If TIF was used correctly as it was intended in 1958, we wouldn't be debating this. Because moral character of the city councils would have said, this is blighted and substandard. This area that is extremely blighted and in 40 years there wouldn't be extremely blighted area there. But what did they do? The purpose of TIF was when we passed in 1978, we all know the inner cities were decaying and we used to call

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them slums. And it became a doughnut effect where they were building on the doughnut on the outside. Good concept. Worked well at first but then the economic development people went to the city council and said, this ain't working because we're going to build this. We're going to build this anyway. We're going to build it in Omaha, we're going to build it in Gothenburg, we're going to build it North Platte because that's where our customer base is. They're going to build it. The "but for" is, the city council goes to them and said, would you build down here in this blighted area instead of out on the Interstate in North Platte if we give you TIF? It's going to get built. A corporation, a company builds. They expand. They find out where the customer base is. Menards was TIFed in North Platte on the Interstate. They were coming to North Platte because the customer base was there. The "but for" should have been, you go downtown, the old railroad tracks and warehouse area and you build it there. If TIF worked, we wouldn't be here today. Those areas, Senator Wayne is concerned about and I'm concerned about, too, I like TIF if used correctly. So don't tell me the "but for". It was going to be built. The "but for" is you build in it the blighted area instead of out by the Interstate. Tax rolls. That's phony. It's frozen for 15 years. If it was a \$100, the schools and everybody gets a hundred bucks for 15 years, it does not-- with new valuations there's not a percentage of it increasing like the other part does. It's frozen. And yes, it's on the tax roll if you want to play that game, but the money is diverted away from the schools, the county, the NRD, the community college, to the developer. It was intended to be diverted to the city, to the city to pay for infrastructure. Tax dollars used for tax dollar purposes. Just diverted for a different purpose. It was given to the developer. Defining extremely blighted. He keeps-- Senator Wayne keeps talking about a census tract. There's no census tract in this. Nothing. There isn't even a statute that says census tract. He plans on passing a bill that the next Legislature can change. There's nothing in here. There's nothing in here that the 49 percent of this thing, of 49.99 percent of this thing couldn't be an open cornfield. A corporation comes in and says we want 20 years. Well, you're not bringing the jobs here. If we don't do it, city council, well, let's blight this extremely blighted and put this parcel, we'll --I have seen these gerrymandered blighted in substandard areas maps. You ought to have seen the one at Ashland before local citizens rose up and defeated it. It would amaze you what they will do. I will tell you also, I looked at who testified. Municipalities, the big ones, the big ones. Not a single citizen showed up. Not a single citizen showed up and said not one single contractor showed up, not one builder who wanted to build in north Omaha and part of my town is blighted and guess what, they finally blighted that area. My most severe blighted area in North Platte is finally blighted the other day because an individual wants to build an apartment complex--

SCHEER: One minute.

GROENE: --out on the edge of the doughnut and they looped it in and they're going to blight that for work force housing. That's how it's done, folks. Well-meaning, good cause, we're going to redo blighted in substandard areas. It's been highjacked. I'm all for TIF used correctly, but it's been highjacked. This will be highjacked. This will be highjacked. You will see very funny--

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looking, blighted and substandard areas gerrymandered to get an area into it where the industry or the company wants to build. This is not necessary. They don't even follow this law now. Senator Williams admitted it. A redevelopment law constitution has evolved into an economic development tool. It was never meant for that. "But for", I will build it in the slum area instead of on the Interstate.

SCHEER: Time, Senator.

GROENE: Thank you.

SCHEER: Thank you, Senator Groene. Senator Moser, you're welcome to speak.

MOSER: Thank you, Mr. President. Good morning, colleagues, again. Senator Wayne, would you respond to a question, please?

SCHEER: Senator Wayne, would you please yield?

WAYNE: Yes.

MOSER: On the definition of extremely blighted, who is the person who makes that call on whether it's extremely blighted or not?

WAYNE: The Nebraska Legislature. We put it in statute, and the statute, Senator Groene, is 18-2103(13).

MOSER: So is it pretty narrowly defined?

WAYNE: It is very narrowly defined. It is the 200 percent of unemployment and 30 percent or greater --20 percent or greater of poverty. That is in statute right now, 18-2103.

MOSER: Okay. Thank you very much. I just wanted to ask that question again. The comments about whether it's going to happen anyway, TIF is supposed to be a difference maker to make a project work. And we used TIF in the city of Columbus a number of times. And we-- and I don't understand --I have to ask Senator Groene a question about redevelopment and economic development. But we used it for a number of projects where we had properties that were either abandoned or they were vacant, or not economically arranged to make the project possible for, one example, we gave TIF to a grocery store to buy out an old trailer park, a vacant lawn and

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garden building, and an older fast-food place. Well, it was functional and I liked to eat there, just as an aside, but we took all those properties, combined them together and I think that the TIF amount was about 500,000. So the properties were all taxed at the current rate going forward, but the increase in value from when the new grocery store there was built was that amount of tax that would represent that increase was used to pay off the bonds for the 500,000 that went into the project. So it was a \$500,000 subsidy to the project for the permissible purposes, but it made the project happen. And so, in my opinion, that was a good project and it went forward. And I think what Senator Wayne is trying to do here is, by going to 20 years, the difference in the valuation will be multiplied times 20 years so you can sell more bonds, so you can get more subsidy into the project to make the project happen. So without-- without judging whether that's necessary in his district or not, you know, that's his call. But what it does is it gives 33 percent more subsidy to the project, maybe that's what it needs to make those work. Again, it's up to the city council and the citizens to decide whether those are worthy projects. But I just --I thought there was some misunderstanding of TIF and I don't think you want us paint it all with a broad brush that it's all bad. I feel we had some great TIF projects. And if you want to know more about them, I can off the mike, I can give you some more examples. Thank you very much.

SCHEER: Thank you, Senator Moser. Senator Albrecht, you're recognized.

ALBRECHT: Again, I'd like to just --thank you, Speaker Scheer, but I'd like to talk more about, you know, some of my communities have done some phenomenal TIF projects. But they didn't take 15 years to pay them off. They might have taken seven or eight. You know, and I guess that's up to the cities and to determine what they need, what their needs are. But knowing that we've had all this massive flooding, you know, I can see that it's not just big businesses that are going to come here right now, we're going to be on a rebuild for many, many years to come in a lot of these areas. And I look at work force housing with homes alone. Just if it was a home, it's not going to necessarily be a blighted area, it might have to be that cornfield. So would they, in fact, carve out an area to make certain that we can overlap something to get that done? Because, you know, we have the Costco plant in Fremont. Are they going to try to figure out, you know, they need housing to house the people that are going to work at that facility. So how is it carved out in this particular bill that they can, in fact, do that? And is it about, you know, us holding back the cities from doing certain things? I get the fact that once it's --big business is here and the tax rolls are going to increase, but I don't quite understand why we have to go from 15 to 20 years. So if Senator Wayne would yield to a question, Senator Wayne?

SCHEER: Senator Wayne, would you please yield?

WAYNE: Yes.

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ALBRECHT: So when you talk --you've got your particular district that you represent. And I'm sure, you know, I don't know, are you looking --is your district more looking for housing, are they looking for business?

WAYNE: Both.

ALBRECHT: So, so you talk a lot about Thurston County, tell me why. Because I have the most TIF projects in Dakota County and Wayne County and they have been very successful, but they also came before us and probably, you know, they're going to follow whatever rules are put in, you know, and maybe they might have had some that were maybe not-- were subject, whether they were actually TIFed areas, blighted or not. I also served on the Papillion City Council. I mean if it's a blighted area, blighted should be spelled out. But is it really spelled out in this and you say it doesn't have to be, but it's confusing to me to say that we can do this LR now without knowing about LB648. So whatever you'd like to help me get there.

WAYNE: Yes, yes. So, currently the definition of extremely blighted is Section 1821-03, paragraph 13. That's already defined. LB648 does not have to pass right now because it's already in statute and defined. But that is my point exactly. So Dakota County is getting a lot of TIF investment and they're doing great things, but Thurston County isn't. And it's probably because it's over 200 percent unemployment, and over 20 percent poverty. So they do need an extra boost, and you are correct. The average TIF project is only financed for 12 years. But when I look at that, and I look at the lack of projects in my community, and I'll add Thurston County and I'll add some parts of Lincoln, I come down to the fact --and I believe it's because they can't get more financing, a longer financing. When you stretch it out by five more years, that lowers the risk of a builder to go into that area, whether it's homes or commercial. So the fact that there are counties around Thurston County that are doing TIF projects,--

SCHEER: One minute.

WAYNE: --leads support to the bill of why Thurston County maybe needs something different underneath TIF. That's my answer. Best I could do.

ALBRECHT: Well, and again, work force housing to me is going to be a big deal. And if the cities can afford to do it, if you are that blighted, sometimes you can't get the funding to do the project in the first place. That's probably why we might stand out a little bit differently than others. But the city of Pender did a lot of great projects but I'm not aware that any of them were TIFed at all. I do know that most of the TIFing in-- in Wayne was housing, you know. And there's still a shortage of housing. I mean, I --I'm just uncomfortable not quite understanding the meat that's going to go into this, and why do we have to extend it that extra five years. I take

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pride in knowing that they were able to pay off the TIF in a much shorter period of time and not a greater period of time.

SCHEER: Time, Senator.

ALBRECHT: Thank you.

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

ERDMAN: Thank you, Mr. Speaker. I appreciate it. Senator Wayne, I did --my neighbor and good friend, Senator Clements, looked up the definition for blighted, extremely blighted. I appreciate that. I heard Senator Williams talk about TIF being an important tool and I was wondering if Senator Williams would yield to a question.

SCHEER: Senator Williams, would you please yield?

WILLIAMS: I sure would.

ERDMAN: Thank you, Senator Williams. Senator Williams, does your bank have any TIF financing in your portfolio?

WILLIAMS: No, we do not.

ERDMAN: Do you know of banks who do?

WILLIAMS: Yes, I certainly do.

ERDMAN: Can you describe for us how that works and who gets to buy these TIF bonds and who sets the interest rate? Do you know about that?

WILLIAMS: Yes, I do. I was head of the Redevelopment Authority in Gothenburg for nearly 25 years, and we issued those bonds on a regular basis. They were made available for purchase. Oftentimes they were purchased by the local banks. We don't have any in our portfolio today. We have had in the past. Oftentimes they are purchased by the project developer themselves.

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ERDMAN: Okay. So how is the interest rate set? Who determines what the interest rate should be?

WILLIAMS: The interest rate in the case that we used was set by the Redevelopment Authority, meaning the community would offer it at a certain rate and that is a taxable rate, not a nontaxable rate.

ERDMAN: I understand that. You know, several TIF projects out in my area, when one hears about that and tries to get involved in buying some of those TIF bonds, never seem to be able to be in a position to do that. Some of those TIF projects would be as high as 7 percent. Would you agree with that?

WILLIAMS: I've never seen any TIF project that was over half of national prime. That's the rate that has been used consistently in the projects that I've worked on.

ERDMAN: If I were to tell you that in my county I've seen some at 7 percent, would that surprise you?

WILLIAMS: I wouldn't have an answer to that.

ERDMAN: Okay, thank you. Thank you for the input. I appreciate that. So lest you think that I'm totally opposed to TIF, I am not. What I am opposed to, the abuse of TIF, and it goes on all the time. And we continue to give tax breaks to those who would build anyway. And consequently, it's not used for redevelopment, it's used for economic development. We annex a cornfield in or we do this or that, and the property wasn't in the city for 40 years, and there's no penalty, there's no repercussions for a city or whatever, who allows these TIF funds, if they do it incorrectly. And when they did an analysis, the auditor reviewed several TIF projects, I think he looked at 30, or 26, and he wanted to look at more but they didn't have enough information put together to even analyze it, or review it, or audit it. And what was the penalty? There was none. And so we continue to do this projects --these projects with TIF, and there's no repercussions from doing it right or wrong. So if the city council whoever makes a decision about TIF, decides that that's a blighted and slighted area because we think it is, that's all that's needed.

SCHEER: One minute.

ERDMAN: So we've got to tighten up what we do with TIF and the way we use TIF, and it needs to be used for redevelopment. And if Senator Wayne wants to use TIF in his community, maybe what we should do is amend the bill to include Lancaster, Douglas and Sarpy Counties to

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go as long as they want, do whatever you want in those communities, because my group of agricultural producers, Senator Dorn, are never eligible for TIF, never. But yet we pay taxes to the state so we can give other peoples TIF. The government is choosing winners and losers with TIF. And this is a continuation of that. Thank you.

SCHEER: Thank you, Senator Erdman and Senator Williams. Senator Kolterman, you're recognized.

KOLTERMAN: Thank you, Mr. President, Good morning, colleagues. I've been involved with TIF in my home community for probably ten years because that's as long as we've had it in Seward. I will tell you that we use it not for everything, but we do use it. But I think in regards to what Senator Erdman said, I think all of us in this body are opposed to any kind of abuse. But let's talk about why we have TIF. I can sum it up in six words. Growth, growth, growth, jobs, jobs, and jobs. There's nothing free about TIF. This --the base, as you've already heard, stays the same. So I was wondering if Senator Wayne would take a question or two, just so everybody understands how this works.

SCHEER: Senator Wayne, would you please yield?

WAYNE: Yes.

KOLTERMAN: Senator Wayne, you talked a little about how TIF works. So we have a property that somebody buys and they're currently paying \$1,000 a year for the property taxes on that property. Does that go away?

WAYNE: No, they continue to pay that throughout the life of the --forever.

KOLTERMAN: So now if they knock that property down and they build a new apartment complex there, and now all of a sudden the value of the taxes is \$3,000, would be \$3,000, where does that extra \$2,000 go?

WAYNE: That goes to pay off the bonding element that financed the project. So that-- for the next 15 years that gap --so from \$1,000 to 3,000, that \$2,000 gap, is what would be used to help pay off the bonding that was --or the financing that was used to finance that project.

KOLTERMAN: So the person that's utilizing TIF still has to make those payments, is that correct?

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WAYNE: Yes.

KOLTERMAN: Now let's talk about the different types of long-term bonding. I've heard different stories about this, or different opinions about this, but I'm told by some that a lot of the TIF bonds get paid off in eight years, most probably get paid off in 12. And what you're asking for here is to give the opportunity to extend it to 20 years, is that correct?

WAYNE: That is correct, only in those extremely blighted areas.

KOLTERMAN: Is there anything in this bill that would prevent somebody from utilizing that initially and then paying off the bonds early?

WAYNE: No, you can pay off the bonds early. In fact, like I said, most people do. They do it around 12 years because the project actually was going very well in those blighted areas and we're taking that same philosophy in bringing it to the extremely blighted areas.

KOLTERMAN: Can the same be said about the fact that if somebody has a current TIF project that's bonded for 15 years, they can pay those off early?

WAYNE: Correct. Currently they can pay those off early.

KOLTERMAN: Thank you very much. So I guess from my perspective, the thing you have to ask yourself, and the reason that communities take advantage of this TIF is, number one, some is used in redevelopment, some is used to new developments. But what would you rather have in your communities, new housing or old dilapidated housing? Because in many cases, you wouldn't have new housing --the old housing would stay the same if we didn't have TIF. And let me ask you this. Would you rather have good jobs that pay a fair wage, or would you rather have no new jobs? That's a question you have to ask. That's why we're doing these TIF projects. So when the --so when the TIF project comes out to North Platte,--

SCHEER: One minute.

KOLTERMAN: --they build it in a cornfield. I understand what you're upset about, Senator Groene. But at the same time I can tell you that there's so many different ancillary benefits that have been generated from that project, good paying jobs with benefits. You put in a new exit for them, but at the same time business has built up around it. Those are all as a result of that business being there. Trucking firms took advantage of it and leveraged our distribution abilities throughout the state. So every time we do these projects they're not all negative as some people

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lead us to believe. Our state has got to grow. If we want the economy to grow, we have to create new jobs, we have to build new buildings, we have to find new housing. And if TIF --remember this, you don't lose anything with TIF, because you never had it to begin with. So when you put a TIF project together--

SCHEER: Time, Senator.

KOLTERMAN: Thank you.

SCHEER: Thank you, Senator Kolterman and Senator Wayne. Senator Briese, you're recognized.

BRIESE: Thank you, Mr. President. Good morning, colleagues. I rise to make a few comments on LR14CA. I'm generally supportive of the concept of what Senator Wayne is trying to do here, but I do have a concern. Section 18-2103 (13) currently defines extremely blighted. And I think Senator Wayne spoke to that definition. I won't repeat it here. But I see nothing that really prevents future legislative bodies from expanding that definition, or watering it down to essentially allow a 20-year payback on any --most any TIF project. So I believe that perhaps we should further define extremely blighted in the constitutional provision. And to the extent we confine this expansion of TIF to those areas we currently define as extremely blighted, in our current statutes, or even a tighter definition, I think it can be good legislation. This change can help lower the risk for investors in some of our most impoverished and needful areas. It can encourage investors and developers to gravitate towards some of these areas, and I think that's a good thing. And many of the longstanding concerns over TIF were addressed in last year's LB874, some of the senators spoke towards that, but LB874 required communities to retain documentation relative to TIF including redevelopment plans, substandard and blighted studies and declarations and cost-benefit analysis. LB874, with some exceptions, prohibited reimbursement of cost incurred prior to approval of the project. It codified the requirement that municipalities conduct a substandard and blighted analysis and requires such studies to be made available for public inspection. It required that cost benefit analysis be made available for public inspection. It required a planning commission hearing on a redevelopment plan. It strengthened the notice requirement. It required community development authorities to compile an annual report and submit it to the affected taxing jurisdictions. And LB874 made a run at one of the most difficult issues we face when we're talking about tax incentives, whether it's the Advantage Act, the ImagiNE Act, TIF, or any other --any of the other incentive proposals we are faced with in this body. And that issue is whether the tax credit or deduction we give actually causes the desired conduct to occur, and in the case of TIF, whether the tax advance actually caused that development to occur. In TIF that's commonly called the "but for" or causation test, found in 18-2116 (1). And LB874 strengthened that requirement by requiring a finding that the project

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would not be feasible and would not otherwise occur without the use of TIF to be documented in writing. I pushed for greater restrictions on it than that, but that's what we came up with. You know, in this body we tend to compromise a lot and work through things to bring all parties to the table. And what we ended up with was that the "but for" test be documented in writing, and that is a step forward. That is helpful in this case. But anyway, the point is that TIF has been strengthened as a redevelopment tool by LB874. And what about that causation or "but for" test? That's always difficult in these matters. There's always the question, would this conduct, this development, this redevelopment in the case of TIF, would it have happened anyway? Or are we just enriching someone here? If we're just enriching someone, the taxpayer loses. But if TIF actually causes the redevelopment, the taxpayers win in the long run. And that's the difficult question. But I would submit that a 20-year tax abatement on a project in an extremely blighted area to the extent we can tighten that definition--

SCHEER: One minute.

BRIESE: Thank you, Mr. President. --does help to ensure that we meet that "but for" test. I believe the taxpayers are going to win more often on a 20-year project in an extremely blighted area than the typical project that we often talk about. But again, I'm concerned about the potential for slippage on the definition of extremely blighted. Thank you, Mr. President.

SCHEER: Thank you, Senator Briese. Senator Friesen, you're recognized.

FRIESEN: Thank you, Mr. President. So when I was on city council in Henderson, we initiated the first TIF project ever in town. I understand TIF. I do like the way it works in most cases, but I don't think it should be used on bare ground. We can go into those arguments. When I have seen what has happened with TIF in the past, I mean we have numerous ethanol plants that were TIF projects out in rural communities, and if you look through the percentage of a communities value compared to what's TIFed in that community, a lot of those communities, in the rural communities at least, have sometimes over 50 percent of their values in a TIF project. And it's because an ethanol plant was built there. So it has been used in the past in rural areas for economic development and I get that. But there are ways in --that I see that it has been abused in the past, and I'll touch on when a city like Omaha or Lincoln uses it, and I've seen it to where they've reduced their value, their base value to zero, first, by purchasing the property and then they redevelop it and so it's basically got a zero base and they TIFed the whole thing. And what works really good here for them to do that is that since it doesn't hurt their school districts because they're equalized, any harm that comes to the school is made up through increased state aid. And so when we TIF projects in rural areas that are nonequalized, we don't make up that difference and so when we do residential housing, that value --I understand the base value and the "but for", but when you bring new kids into a school district and you don't bring in

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equalization aid with it, that's where it causes some problems and that's what we did last year. So what Senator Wayne is trying to do here, I'm not objecting to. If we can --and I think Senator Briese touched on it too, is to define that severely blighted and substandard area. And I think that needs to be tightened up because you have seen huge sections of Omaha declared blighted. And there are areas that I would not consider to be blighted. And so what this does is it brings in more state aid to schools. And if we could ever fix how we fund K-12 for education, my objection to that would even be taken away. But right now in 175 of our schools, they receive no equalization aid. And so they don't receive any more funds when we TIF a project in our area. So I --the bill I think --there are some bills that we've heard in Revenue that do define some severely blighted areas. I don't know if those are needed down the road to restrict that area, but I do not really --I guess I don't trust municipalities to not broaden that definition down the road if we don't put it in statute. I think it needs to be very well-defined so that it cannot exceed what we intend here today. And so without those controls in place and without a good definition in place of what that is, I'm not sure I can support this. But I do support the concept of what he's trying to do. But down the road, if we can broaden that definition of what's blighted and substandard, you can see what they did with that definition in a lot of communities. And if you go into those neighborhoods, you sure wouldn't call them blighted and substandard. So we have allowed a lot of that to happen, and that's what brings that distrust today from me. So I --I totally think some of this is a good project when we redevelop inner cities. I see it as a great need for those areas, and that's the only way they're probably going to get it done. But again, if we don't severely --or restrict the area that can be defined as extremely blighted--

SCHEER: One minute.

FRIESEN: Thank you, Mr. President. --I am worried that those areas will expand and again, if we could just bring a fix to how we fund K-12 so it wasn't so dependent on property taxes, I could probably loosen up my definition of what we could be using TIF on and what we couldn't. But with the current standards in place, we need to have a well-defined definition of what can be severely blighted. Thank you, Mr. President.

SCHEER: Thank you, Senator Friesen. Senator Moser, you're recognized.

MOSER: Thank you, Mr. President. A couple of just kind of comments about the discussion we're having this morning. Senator Erdman asked about who sets the rates on these bonds. And I believe that Senator Williams said that the redevelopment company, or the --whoever is trying to set it up, sets those rates. But I think that may be technically true, but you still have to be able to sell the bonds. So the bond rates are really set by the marketplace. The bond underwriters typically go out and try to shop these bonds around to various investors. And they say, well, here's city X and they have this project Z, and if they wanted to sell \$2 million in bonds, what

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bond rate would interest you. You know, would you be a buyer of bonds of that value, that term, and at this rate? And so if you have a project that has a 7 percent rate on the bonds, you either -- you either have to have a municipality that has a very poor history of paying off bonded indebtedness, or you have a project that is risky looking. And so having a 7 percent rate would reduce the amount of bonds that you could sell because there's only so much increase in valuation, and there are only so many permissible costs. So you-- you wouldn't be able to put as much actual benefit to the project with 7 percent rated bond. So that's another thing to consider. The real estate tax increase has to be large enough to pay off the bonds in a reasonable time. We had projects that went seven years, ten years, and some 15. It depended on what the costs were and how much the increase was and how fast they could be paid back. It's always the goal to pay them back as quickly as you can. Thank you, Mr. President.

SCHEER: Thank you, Senator Moser. Senator Erdman, you're recognized, and Senator Erdman, this is your third time at the mike.

ERDMAN: Thank you, Mr. Speaker, I appreciate that. I think Senator Briese made some sense in his comments, and I do appreciate that. Senator Friesen understands it as well. I would ask Senator Wayne if he would yield to a question or two.

SCHEER: Senator Wayne, would you please yield?

WAYNE: Yes, I would.

ERDMAN: Senator Wayne, you mentioned to me that you thought this bill may come up Wednesday, Tuesday or Wednesday. If you look down at the bottom of the page, I have one that I thought would come up Thursday or Monday, so I feel your pain. But let me ask you this question. Senator Briese made a comment about strengthening the requirements in a constitutional amendment. In your opinion, is it possible to amend this CA and have those requirements included?

WAYNE: So, me and Briese were talking about that, and I'm more than happy to continue to talk with Senator Briese about it. I just don't know how we get narrow definitions in a Constitution. The Constitution is supposed to be based off of principles, broad ideas and the Legislature is supposed to go in and define because things change over time. But I told Senator Briese I'm willing to work with him. I just don't know how you can do that constitutionally by putting certain things in the Constitution that narrowly define certain things. I haven't seen that done before.

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ERDMAN: Right. So as you may already know, I've had little exposure to constitutional amendments and petition drives.

WAYNE: I do know that.

ERDMAN: And here's what I've discovered. It is sometimes difficult to put a CA in place or the wording or the language in place that is a single subject.

WAYNE: Very much.

ERDMAN: And so if you begin to put the definitions of what extremely blighted is into the CA, I think you may run the risk of not being a single subject, and therefore it may be unconstitutional.

WAYNE: Hence, my problem.

ERDMAN: I agree with that. I'd also agree that Senator Briese is on the right track that we need more teeth in the language in what we do. And as I mentioned earlier, when the auditor did an audit of those TIF projects that were already in place, it was disappointing that there was a number of them didn't have enough information to even do an audit. So Senator Wayne, one last question. If we were to amend your CA to say this applies to Lancaster, Douglas and Sarpy County, would you be okay with that?

WAYNE: My initial reaction is, yes. But I've never seen that in a Constitution where we would limit such narrowly-- that it would only apply to certain areas. Because the issue is, what happens if a place gets worse, then you have to amend the Constitution to help them. So, I'm willing to have that conversation. I just don't know how to do it.

ERDMAN: Okay. Well, I understand that and the reason I ask is because you're a lawyer and I'm a farmer, so I wouldn't have any clue. But the other issue that I've seen over a period of time, I'm disappointed that agriculture never gets an opportunity to take advantage of TIF. It always has to be a municipality or a city, and consequently we're not eligible for those. And I know agriculture gets TIF project help in an indirect way according to what Senator Friesen said about the ethanol plants that were developed and I appreciate that too. But interesting conversation. We'll continue to watch and see what happens here, but I do appreciate you bringing it for discussion. It's always good to talk about those issues. But you may want to consider some of those other states where they have no limit at all. I don't know if that's the correct way--

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SCHEER: One minute.

ERDMAN: --to go or not, but thank you.

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

LOWE: Thank you, Mr. President. Kearney has used the TIF several times and they've done it pretty well. A couple of times I think they took some property that wasn't blighted and made it blighted because it was going to be a good project. And so I question some of that. But, you know, we need to use things to advance our economy, but I'm just not sure exactly at this time. And with that, I'd like to yield the rest of my time to Senator Groene, if he would take it.

SCHEER: Senator Groene, 4:20.

GROENE: Thank you. You know, I appreciate my good friend, Senator Kolterman and Williams for their honesty. TIF is used for economic development. Completely contrary to its intent, that's what it's used to. Senator Kolterman said growth, growth, jobs, jobs, jobs. It should be redevelopment, redevelopment, urban renewal, urban renewal. To claim it would not be built unless it was TIFed is to say you have lost all faith in the free enterprise system. If the free enterprise system doesn't work, the profit motive doesn't work anymore. The problem is this. TIF has become, oh, no I'm not going to build it in Norfolk or North Platte, I'll build it in Fremont or Columbus because they will TIF it. And they'll come up with some other gimmies. It has nothing to do with a blighted area. It's become a necessity of competition and I don't know why cities are competing against each other, but they are. Senator Moser's example was a good TIF. If you don't understand TIF, it's simple. You tear down old, dilapidated buildings and you put a new one up. That's what Senator Moser described about the old trailer park. That I can support and have always supported when it comes to TIF. If this body wants to --but we have the Advantage Act, folks. We already have something. There are ways to compete with other states because that's what it should be, not competing with one community against another community, harming those taxpayers as you give away the tax base. We have a property tax problem in this state. Senator Erdman kind of hinted on it. Think about it. We will not build it. The deciding factor is property taxes are so high, so abusive, so restrictive that the ability to avoid those taxes, or to have them pay them, and they do pay them, and then have them return back to me is the deciding factor of profitability of that project should scare and give us all pause about our property tax system in the state of Nebraska. I'm supposed to build a new home, if I decided to, and pay property taxes, but the next person doesn't have to. And to Senator Moser's point, in small communities on the bonds, usually there's no auction. An agreement is made with the negotiations with the developer that they will buy the bonds and a preset return on investment is set. So now this developer not

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only gets their taxes back, because they buy their own bond, they make a profit on it of 7 or 8 percent profit because they get paid interest on their taxes for a longer period of time.

SCHEER: One minute.

GROENE: It's really sad that Senator Wayne has to bring this. Senator Wayne and I are pretty much on the same page about TIF. And I cosponsored LB874 because it did restrict --you know, a statute like that with no penalties, no consequences if you don't follow it is meaningless, unless the character of the individuals who are reading the statute at the city government level have the moral character to follow it because there's no penalty. There's no comeback. The only thing was the citizen to spend their own tax dollars to sue in civil court. So they're meaningless. Actually it's --what is in the statute is 15 years, 15 years. That's a pretty hard number. No wavering, no jumping around, it is 15 years. Now we want to go to 20 years. And I think I'm up next in the queue, but I would--

SCHEER: Time, Senator.

GROENE: Thank you.

SCHEER: Thank you, Senator Lowe and Senator Groene. (Visitors introduced.) Mr. Clerk for a motion.

CLERK: Mr. President, Senator Groene would move to amend LR14CA with FA26.

SCHEER: Senator Groene, you're welcome to open on your floor amendment.

GROENE: I just talked to Senator Wayne and I'm all for the-- I'll stomach this. I won't go out and tell people to vote for it, because it doesn't help my district at all. Doesn't help all of rural Nebraska at all. But if we change on page 2, line 1, from for period not to exceed 20 years, if more than one half of the property, the floor amendment strikes more than one half and puts 100 percent of the property in the project areas as designated as extremely blighted. I have in front of me the definition in statute 18-2103 of extremely blighted. I won't go into it but (b) says, the average poverty rate in the area exceeds twenty percent of the total federal census tract or tracts or federal census block group or block groups in the area. That doesn't say, that isn't what the Constitution amendment says that it has to be a census tract. It just says it has to be an area that's 50.1 percent designated as extremely blighted. So if you take that definition in that Constitution, it just says you got to look for a census tract that has 200 percent of the average unemployment during the period-- at least 200 percent of the average rate of unemployment. You find that

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census tract and that's 50 and then you expand it, then make sure that's 50.1 percent, and then you expand it to the area around it or connect it by a narrow neck of land to the area that the developer wants to develop, that's in a cornfield, or up against the Interstate or a major thoroughfare, and you've got it, folks. You got 20 years. Because it's 49 percent of it is-- 51 percent-- 50.1 percent of it is 200 percent and its contained in one census tract. Doesn't say the rest of it has to be. I can't make that connection. Besides, this is Constitution, and this is the statute. As Senator Briese pointed out and a few others did, that could be changed tomorrow. That could turn into 101 percent of average unemployment just with the next body that comes here. A huge corporation wants to come to town, to the state, and they want TIF, and they want 20 years. How quick would this body change that definition? How quick would they do it? It would be a priority. It would be the first priority bill you heard to change that so that we can get 20 years TIF. That's how it works, folks. Fear. Don't get me wrong. I love business. I'm a businessman. And I admire-- because they're sharks. It's the bottom line. I do not ever criticize a business asking for TIF. It's their bottom line. It's for their investors, it's for their pocketbook. They're risking. They want every penny they can get. I do criticize weak city council members across the state who buckle. Justified in themselves that this corporation or this company coming to town, or this housing development, look the other way. Or the attorney who gives them advice and says, yeah, you can do it with a wink of an eye, there's no consequences. There's nothing in statute that you have a consequence if you don't follow it. Or if you follow the Constitution, it's in your --it's in the eye of the beholder what blighted and substandard is. Sadly, that's where we're at. I would gladly support a law that-- if somebody wanted to sue on the TIF project, and they won in civil court, the city had to pay their legal fees. You would have some lawsuits, folks. You'd get this thing under control real quick. We have a-- that's why I fight this. I fight all tax credits. I fight all of these exceptions to the rule. If any of you have balanced a checkbook, ran a business, you cannot have giveaways, and giveaways, and then complain that you have to raise your price on your product. That's where we are on property taxes, folks. We have these giveaways. We have these exceptions what charities are. I have a bill that hospitals should now pay property taxes because they're not a charity, not with the expansion of Medicaid. The pool of people paying property taxes is getting smaller and smaller. But if you're one of the guys whose profiting, hey, I can make half a million bucks on this deal, I can make a 50,000 as an attorney, I can do it as the banker or the real estate agent, and if my taxes go up 5,000, I'm still 45,000 to the good. I can support this. But if you're the average taxpayer going to work every day and you want to retire in Nebraska and you can't afford your property taxes, look that city council person in the eye and ask them why. Why did they give that away? Why did you give our tax base away? That's the question you need to ask. It's being abused. It's being abused. A good program that Senator Wayne and I agree on, a very good program, as I said earlier, it's an insult to his area, that there is an extremely blighted area in his district and TIF has been around since 1978. Why? That's what it was supposed to fix. And if a city wanted to fix it, they would have confined their blighted areas to those areas and it would have been fixed. But no, they chased the gold ring. They wanted to be venture capitalists. Get elected to city council and the mayor, and pretty

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sure you're a venture capitalist. But what is your funding? Tax dollars. Tax dollars. Property tax dollars. What you fund what you believe would have never happened, because you don't believe in the free market system. The free market never builds, according to what I hear in this body, unless we stick our nose in it. Unless we treat certain companies this way or that way. I could list, as long as my arm, companies who just came to North Platte, Nebraska, and built. And I do business there. Cohagen Battery, Walgreens. I can go on and on. Just across the street somebody got TIF, after they built. So don't insult free enterprise companies by saying they won't build unless they get TIF. There are good, good companies out there that willingly pay their property tax and be part of the community. There are those who don't. And there are those who legitimately will build a new headquarters in downtown Omaha and want TIF. All for it. All for it. They'll stay downtown and build a new skyscraper or whatever and tear out some old tenements and put some new infrastructure in, new sewer lines, water, curbs, widen the street. I'm all for it. This should never have to be, if TIF was used correctly since 1978. And you think you passed this? This isn't a vote on if you think TIF is good or think TIF is bad. This is a vote, will this help? Will it create more abuse? Is it written clearly? To solve what Senator Wayne wants to solve. It is not. It will be abused the way it's written. So my amendment says it has to be 100 percent. Why not? Why not 100 percent? Why 50.1? I could tell you why, because economic development, legal municipalities came in and said, hey, wait a second and wink of an eye and said there might that opportunity that we could get a company, or we could bribe a company who's already coming, and we could act like we accomplished something if we put 51 percent, over one-half instead of 100 percent. Senator Wayne wants to put 100 percent there--

SCHEER: One minute.

GROENE: By the way, I'm not filibustering, I'm-- this is a major debate. This is a major property tax, folks, proposal. This affects property taxes for everybody. This affects state aid to schools. State aid for schools, for 20 years, this property on its growth, you and I will pay income and our sales taxes will offset the loss of those property taxes to fund the schools and equalize districts, which OPS is, and LPS, and Norfolk, North Platte, Norfolk and Columbus. We will help offset the taxes to fund our public schools because a city decided to play economic development guru. Thank you.

SCHEER: Thank you, Senator Groene. Mr. Clerk for items.

ASSISTANT CLERK: Mr. President, your Committee on General Affairs reports LB397 to General File; LB41, LB137, LB149, LB538, and LB584 to General File with committee amendments attached. Your Committee on Health and Human Services reports LB62 and LB559 to General File as well as LB220, LB323, LB518, to General File with committee amendments. Committee on Appropriations reports LB334 and LB638, both to General File with committee

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amendments attached. A new A bill. LB237A by Senator Crawford would appropriate funds to carry out the provisions of LB237. New resolutions: LR57 by Senator Williams, an interim study resolution on the Real Property Appraiser Act; LR58 by Senator Halloran would congratulate the Hastings St. Cecilia basketball championship. Amendment to be printed by Senator Crawford to LB237. Two confirmation reports from the Health and Human Services Committee. Names adds: Senator Wayne to LB390; Senator Linehan to LB451; Senator Brandt to LB491; Senator Brewer to LB605; Senator Murman and Senator Brandt both to LB657.

And finally a priority motion. Senator Hunt would move to adjourn until Tuesday, March 26, 2019, at 9:00 a.m.

SCHEER: Thank you, Mr. Clerk. Colleagues, you've heard the motion to adjourn. All those in favor please say aye. All those opposed say nay. We are adjourned.