

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

Floor Debate
April 15, 2019

[]

FOLEY: [RECORDER MALFUNCTION] Call to order the fifty-ninth day of the One Hundred Sixth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

ASSISTANT CLERK: No corrections.

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

ASSISTANT CLERK: None at this time, Mr. President.

FOLEY: While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following four Legislative Resolutions, LR79, LR80, LR81, and LR82. Senator Geist, for what purpose do you rise?

GEIST: Thank you, Mr. President. I would like to rise for a point of personal privilege.

FOLEY: Please proceed.

GEIST: I would like to share my deepest sympathy and compassion with the family of Coby Mach. Coby was a dear friend and a pillar of the community and he's left a hole in our community that will be difficult to fill. His passion and drive helped Lincoln Independent Business Association double in size during his tenure as the president and it became known as an important part of this community and has been known for its informative candidate forums for their members under Coby's leadership. Coby spent much of his time in the radio business and was the most listened to talk show host in Lincoln. His show, Drive Time Lincoln, helped keep citizens of Lincoln informed about local, state, and national issues. He was so well-respected that elected officials and community leaders always agreed to be on his show. He was dedicated to providing the community with a way to share their opinions on issues. Whether the guests reflected Coby's views or not, he treated each one with dignity and respect. If there's any positive that can come from this tragedy, I pray that we can all learn from that example. There's no issue so great that it should eclipse the humanity behind that issue. Whether we agree or not, our call

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

Floor Debate
April 15, 2019

as citizens created in the image of God is to recognize these qualities in our fellow man and treat each other accordingly. Please keep Coby's wife and daughters in your prayers. They have a long journey ahead and they will need all of the positive influences surrounding them that they can get. Coby's funeral is this Wednesday at 1:00 at Messiah Lutheran Church. There is a viewing from 5:00 to 7:00 at Roper Funeral Home on Tuesday evening for those who cannot attend the funeral. Thank you, Mr. President.

FOLEY: Thank you, Senator Geist. Senator McCollister, for what purpose do you rise?

McCOLLISTER: Personal privilege, Mr. President.

FOLEY: Please proceed.

McCOLLISTER: I'd also like to pay tribute to Coby Mach. I worked with him a great deal in my Platte Institute days, went on his radio program a number of times, and he was a consummate professional and a good guy. So let's all remember Coby Mach's family in our, our prayers. Thank you, Mr. President.

FOLEY: Thank you, Senator McCollister. Members, we'll proceed to the agenda, General File, 2019, senator priority bills, LB138. Mr. Clerk.

ASSISTANT CLERK: Mr. President, LB138, introduced by Senator Blood. (Read title.) The bill was read for the first time on January 11 of this year and referred to the Transportation Committee. When we left off there was an amendment pending from Senator Blood.

FOLEY: Senator Blood, this bill has already been on the floor once. Why don't you give us a two-minute overview of the bill, then we'll turn to Senator Friesen for a two-minute review of the Transportation Committee amendment. You might also speak to your amendment that's pending, Senator Blood. Senator Blood, please proceed.

BLOOD: Thank you, Mr. President. I will try to keep it to two minutes. I ask everybody to actually hear this recap, because I think there's been miscommunications. So LB138 is a bill that expands our honor plates for those who've received campaign medals for Vietnam, Iraq, Afghanistan, the Global War on Terrorism and southwest Asia. All the honor plates will be sold alongside the current military honor plates that are already offered by the DMV and the price of these plates are exactly the same as all of the existing honor plates. Just a reminder that the small profit made on the honor plates goes towards the Nebraska Veterans Cemetery and has for many years. This bill changes none of that. LB138 creates a sixth plate that will say, "Support Our

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

Floor Debate
April 15, 2019

Troops." This allows others in Nebraska who would like to show they honor and support the men and women who have served, but are unable to purchase honor plates since they themselves have not served. These are similar to something like the Husker Spirit plates because they're available for anyone who wants to buy them and willing to pay a little extra. And we've seen plenty of people who are willing to pay those fees, especially knowing when it's going to go to an important cause. And as all the other Nebraska license plates will have that cause clearly explained on the DMV Web site. AM930 changes the committee amendment that changed the original fees proposed in our bill to the Support Our Troops to \$40 and puts the fee back at \$70. Again, only the Support Our Troops plates are going to be set at \$70. On that note, I wanted to thank Senator Slama's office for their help on Friday. I reached out to get some clarification on the constituent she mentioned last week. While I wasn't able to talk to this person, I was able to see that her constituent really is talking about the veteran and military honor plates and not the Support Our Troops plates. And I believe the committee's AM783 actually takes care of that constituent's concerns on page 18 starting on line 3, where it wipes out additional fees for the honor plates starting in 2021. Again, my amendment does not change that. It changes the fees back for Support Our Troops plates. I also found a small handful of Nebraska rural residents that were confused after reading a particular article on a bill about the Pansing Brooks amendment, because the initial information in the article was inaccurate and I believe that part of that was based on that article since she stated that she had read an article. This was not an arbitrary number we came up with out of thin air. It's based on what we saw with plates like the now often mentioned Husker Spirit plates. Finally, the newly formed Veterans Employment Fund is meant to make sure that when an active duty service member nears retirement so we can recruit him or her to stay in Nebraska or to relocate here. It's important that we get that fund up and running quickly. In support of these efforts, Nebraska's worker shortage is of great urgency. We received full support in person and by written testimony from organizations, such as Nebraska Veterans Council, Nebraska Veterans of Foreign Wars, and Nebraska Veterans Coalition, and the Heartland of America Chapter of MOAA. This bill received great support as originally written. There was no opposition nor were there any suggestions to change the price of the Support Our Troops plate. I want to make sure they know we hear their voices of support that represents thousands of veterans by keeping the infrastructure of the bill the same and letting them know that the multiple meetings they have had with those committees knows that the Legislature takes seriously their ongoing request for change, change that strengthens our work force, change that broadens our tax base, and change that Nebraska veterans have told us they support. I found a creative way to fund that request that does not raise taxes and can continue to provide revenue for years to come. That's why I urge you to support and green vote on AM930, then AM783, and finally, LB138. Thank you.

FOLEY: Thank you, Senator Blood. Senator Friesen, do you need a little time to refresh us on the committee amendment?

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

Floor Debate
April 15, 2019

FRIESEN: Thank you, Mr. President. Yes, the amendment which is, you know, AM783 incorporates some other bills into this bill, talking about other plates, dealing with National Guard honor plates. LB696 and LB697 are all just clarifying language on some of the different plates. Some of the confusion is, the committee worked-- spent some time trying to standardize the different plates and categorize them and change where the different money was going and how much. And so that was what this amendment does a lot of, it just standardized things across the-- all of the different types of plates. And right now, there's three types of plates that charge a \$70 application fee. One of them was the Husker plate, which a portion was allocated to the University of Nebraska, but it is not anymore; it quit that in 2014. And so it all goes to DMV cash fund and the Highway Trust Fund. The organizational specialty plates is-- the application fee is divided between the DMV cash fund and the Highway Trust Fund. And then we have the Nebraska Sesquicentennial plate which is currently \$70, but that will not be reissued after 2021 or 2022 when the program expires. So, again, we spent considerable time clarifying things and making it so it's standardized across all the different plates. So we stand in opposition to raising it to \$70. But, again, I will urge everyone to vote however they feel. I'm not going to filibuster something like this. This is not-- that's not the point. We just standardized things. We did not talk to other plate holders or people that had created plates. We just took it upon ourselves to standardize things across the plate structure. So thank you, Mr. President.

FOLEY: Thank you, Senator Friesen. Debate is now open on LB138 and the pending committee amendment and the amendment to the committee amendment. Senator Chambers.

CHAMBERS: Thank you. Mr. President, members of the Legislature, when I came here I was opposed to the license plates being used for anything other than a means to identify the specific vehicle. I spoke against slogans like the Beef State, anything that smacked of a political statement or a commercial. When I was gone because of term limits, that battle I was waging was lost. All types of license plates were put into effect. Now, there cannot be standardization in my opinion. Standardization existed only when the plates served one purpose. Now instead of using the term "standardization," maybe the word should be "assimilation," where when it comes to the cost, all will be the same. But since the plates have been used for blatantly political reasons, for example, that Pro Life plate. It was made clear what that was for. So now, the plates have been used for different purposes. In this battle, if you want to call it that, I'm in a position to say something that you will rarely hear me say on this floor. There's a song that describes it better than I can. And in order not to diminish the impact I won't try to sing it but the lyric says, there ain't no good guys, there ain't no bad guys. There's only you and me and we just disagree. This is a case where people can disagree without being bad guys. People can support this without being what might be called good guys. But the purpose and goal of these plates are worthy of your consideration and support. Had I not lost the battle, I would be opposed to this plate, any other plate regardless of where the money went. All of that has gone out the window. The plates can now be used for fund-raising purposes. And if you think that the purpose for which the funds

Floor Debate
April 15, 2019

are raised is worthy, then let the plate go, let it raise that money, there was no opposition to this. There might be certain people in a certain political party who are opposed to it. Certain people who call themselves conservatives who are opposed to it. But those people who call them conservatives are highly hypocritical, especially members of the Republican Party. They don't want former Governor Bob Kerrey and former US. Senator Bob Kerrey to speak at Creighton because Creighton is a Jesuit university-- from which I graduated. The only thing they hate worse is I tell you than the fact that I graduated from there, is that I tell people I graduated from there. They say that since the Catholic Church has a position against abortion and Bob Kerrey is pro-life, he should not be allowed to speak there because it goes against what the Catholic Church says. But as you all know, the "Repelican" party is staunchly in favor of the death penalty, even though the Pope, the Church and the Vatican are opposed to it. The Governor is staunchly in favor of the death penalty, against what the Pope's and the Church's position is. Do you think somebody would say, don't let him speak at a Catholic university because he has taken a position diametrically opposed to that of the Church, the Pope and the Vatican? Now, Bob Kerrey, I know. He is not going to discuss abortion. Bob Kerrey is not a fool.

FOLEY: One minute.

CHAMBERS: Bob Kerrey doesn't take advantage of an invitation extended to him to trick the host and behave in a very inappropriate manner. I hope that he will accept the invitation. I applaud Creighton for extending it and I condemn strongly in the strongest terms that hypocritical "Repelican" party who have taken the public position they have on that issue. But back to this one, I do support what Senator Blood is trying to do. I support her bill. I will support it with my vote also. Thank you Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Hunt.

HUNT: Thank you, Mr. Lieutenant Governor. I rise in support of AM930 and the underlining bill, because I don't have to be on the mike and tell you that Nebraska's veterans have made tremendous sacrifices for our security and for our country and they deserve our support when they come back home. And I think that this body should commit to giving these people everything they need to successfully reintegrate into society, come back and be a successful civilian when they serve our country. And by passing this bill, we've done a really small thing to help these people get to that point. Job training, work force development, talent attraction and retention of some of the most talented, well-trained, hardworking, brilliant strategic and technical minds in our country. That's who veterans are. There's a woman in my district who lives just a couple blocks away from me. And she lives in an old white house, but it's really beautiful and it has a screened-in porch and she lives there with her dogs. And I met her while canvassing. She's a veteran of the Gulf War and Afghanistan. And during her time overseas she

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

Floor Debate
April 15, 2019

was sexually assaulted by one of her superior officers in what I can only imagine as the greatest betrayal and violation from somebody who is supposed to be on your team and someone who's supposed to have your back. And I've spoken to her many times about her struggle to find healthcare, to find peace in her world since then, and to find a job, because the PTSD that she struggles from that experience continues to this day. There are veterans who are tipped workers, who work for \$2.13 an hour, which some of us tried to raise in Nebraska, but this body ultimately did not support. There are veterans who are gay. There's one who's running for president right now. And some of us in this body tried to do something to support those veterans but ultimately this body did not support that. There are veterans who have drug convictions and who are in poverty. A lot of that is a consequence of PTSD from trauma sustained during their service to our country. And a lot of us in this body tried to make sure that they could get food stamps and food assistance when they needed it, but ultimately as a body we did not support that. If this body supported the troops we would not have to have what amounts to a government bake sale to sell specialty license plates to support services for the people who make sacrifices for our country. But I really support this bill because I think Nebraskan veterans deserve more than a thank you for your service. And I want to thank Senator Blood and also Senator Pansing Brooks for finding a creative way at no cost to the state to do more. What Senator Blood has done is find a no-cost way to support veterans through the Veterans Employment Fund-- Veterans Employment Program Fund. And I thank her for working with Senator Pansing Brooks to help veterans who are trying to find work in Nebraska. This is a bill that no one in this body should have trouble supporting. Specialty license plates are extremely optional. You do not have to buy one. If this is out of your price range, you should probably save your money a little bit and take care of yourself before you go buy a specialty license plate. And people in Nebraska know that. And we know that because we've had very successful sales of other specialty license plates that have raised money for lots of really great important causes in Nebraska. And I agree with Senator Chambers, before we started doing specialty plates in Nebraska, I was really against it. And I think that this is probably not the ideal way to raise money for services that government should be covering, but now that the barn door is open and we're doing that, I think that this is a very valid, very reasonable way for people who want to support their friends, their family members who have served our country to opt-in and do that and give a little bit more of their money to support a fund that's going to help find work and job training for our veterans and generate revenue for the people who have sacrificed so much for us.

FOLEY: One minute.

HUNT: So I urge your green vote on AM930 and I support this bill. Thank you, Mr. President.

FOLEY: Thank you, Senator Hunt. Senator Erdman.

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

Floor Debate
April 15, 2019

ERDMAN: Thank you, Lieutenant Governor. Good morning. I've listened to the debate and some were very supportive of LB138. I stand in confusion. I'm trying to figure out exactly what we're trying to fund and how much funds we're going to raise. And maybe I could ask Senator Blood a question. Maybe she could help me understand what she's trying to do.

FOLEY: Senator Blood, will you yield, please?

BLOOD: Yes, I'd be happy to yield to a question for Senator Erdman.

ERDMAN: Thank you, Senator Blood. Senator Blood, do you have an estimate or do you have an opinion about how many license plates and how much money this plate will generate?

BLOOD: Based on our research over the summer, we anticipate that at least a thousand plates will be sold.

ERDMAN: A thousand plates?

BLOOD: A thousand plates. I think DMV estimated 150 for the purposes of their fiscal note, but based on our research, people that are not military that are like you and I--

ERDMAN: Okay. So I see the information that I've picked up on how many plates are sold. It looks like the Mountain Lion plate is second only to the Husker Spirit plate. And that's a significant number of plates, 25,000, 26,000 last year it looks like. So your amendment, AM930 is taking it from \$40 to \$70 and then the \$30 will be used to fund the program that you want to put in place. Am I understanding that right?

BLOOD: Seventy-five percent of the \$70 will go to the Veteran's Employment Fund in support of recruiting and retaining veterans to stay and work in Nebraska.

ERDMAN: OK.

BLOOD: And that says it in the bill.

ERDMAN: So and I heard a discussion from Senator Friesen last Thursday about how many plates are sold for \$70. And will this be the only plate that is at \$70?

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

Floor Debate
April 15, 2019

BLOOD: No, the Husker Spirit plate, as you see I think they sold over \$2,000. Excuse me, over 2,000 plates.

ERDMAN: OK. I see there's one here--

BLOOD: Husker Spirit message, 2,093.

ERDMAN: Yep, yep, I see that. Yep. Is there another program that does what this bill is going to fund?

BLOOD: There is a program that was initiated in the Department of Labor but, frankly, it's not enough and they don't have the funds to do more with the program, which is why we initiated this fund. It was requested by every single veterans group that I met with.

ERDMAN: So would it make sense if we need to do this for veterans that we would find a better source of funding than a license plate?

BLOOD: You know, that would be my case that I would most certainly prefer to find something besides a license plate. But with the budget as it is, and with us certainly not wanting to do new taxes, this was the solution I came up with that would be a city resource when it came to Revenue and it was one that the veterans all supported. Not a single veteran has come forward and said-- with the exception of what Senator Slama stated, and I think there was a mis-- some confusion, has told me that they are against the \$70 fee. And I think the testimony also showed that.

ERDMAN: OK. All right. Well, thank you for those questions. I'm still-- I'm, I'm still not real sure this is the best way to fund what you're trying to fund.

BLOOD: I wouldn't disagree, but it was the way that I found.

ERDMAN: So maybe I'm kind of old school. Maybe I'm what Senator Chambers said earlier about the plates. And we have a numer-- a numer-- a number of plates. We have a specialty plate that I have on my vehicle, but I paid the \$70. Thank you.

BLOOD: Because you made that choice.

ERDMAN: Thank you.

Floor Debate
April 15, 2019

BLOOD: Thank you.

FOLEY: Thank you, Senator Erdman and Senator Blood. Senator Crawford.

CRAWFORD: Thank you, Mr. President. Good morning, colleagues. I rise in support of LB138 and AM930. And I want to thank Senator Blood for-- I'm going to start with my support for expanding the veterans plates, which are the \$40 plates. These are plates for our veterans who have served in various campaigns that were currently not represented in our license plate. And I really appreciate her effort to make sure we included those campaigns, especially the Vietnam veterans is an important group that wasn't represented before and it's very important that we recognize those veterans as well as veterans who have been in our more recent campaigns that are, that are deserving of our support. And if they choose to pay \$40, then they can get this special plate and I think that's a great way to honor them. I rise also in support of AM930. Again, the funds go to the Veteran Employment Fund and the Department of Labor. And colleagues, we've heard over and over again that the most critical issue facing our state is work force development, that we need work force. Over and over again when the chamber surveys businesses, they find that we need work force. We need people in this state. And colleagues, our other states around us are investing in recruiting veterans, especially our neighbor, our neighbor, Iowa, is recruit-- is investing in recruiting veterans. And it's important for us to step up our game on this front and help to recruit these experienced, skilled veterans to our community and to help connect them to jobs. The critical piece to avoid veteran suicide is to get veterans connected to jobs quickly. And I think all of us would support the importance of helping veterans when they return to get integrated and back into the work force. And not only is that valuable to us, just from a selfish perspective of improving our economy, but it's also critical to these veterans and their families. And the veterans who have suffered so much on our behalf, it's important that this is a small thing that we can do to try to help improve their integration when they return. And that integration is a critical issue for veterans is, how to really-- when you get back home how to get back into the work force once you're back home. And so this is a critical piece of making that happen. I would argue in support of this funding mechanism. Again, the \$70 plates are plates for people who want to support our troops. So it's people who are choosing to pay more money because they want something that supports our troops. And I think that the Veterans Employment Fund is a great way for people to support our troops. So it's a really a good way for people to put their money where their commitments are and say, I want to support our troops. I'm willing to pay more for programs in the state that support our troops. And so I think this is a perfectly reasonable thing to have this as a funding mechanism because it really pulls from people who want to support these efforts. And so, asking them for 30 more dollars because it goes to a fund that supports our veterans, I think if you polled people they'd be very happy to know that their \$30 more is going to this-- directly to this program. And I think it's a very, very valuable way to fund the program is to allow people who support the program the most to provide extra for their license plate. And, again, it's similar to what we do with Husker Pride so people who want to pay

Floor Debate
April 15, 2019

more for the university are allowed to buy those plates and more money goes to the university. We still fund the university. We still fund programs for veterans. But this provides an extra opportunity for those people who are wanting to provide extra support to do that. And it finds a good way for this-- for it to be funneled to a program that will really help to support our veterans and their families. So I support AM--

FOLEY: One minute.

CRAWFORD: Thank you, Mr. President. So I support AM930 and I support LB138 and I hope you will do so, too, so that those people who are wanting to support our veterans have the opportunity to purchase this plate with funds that will help us create and fund-- the Veterans Employment Fund, which will help us to recruit and retain veterans in our state and help our veterans transition when they return. Thank you, Mr. President.

FOLEY: Thank you, Senator Crawford. Continuing discussion, Senator McCollister.

McCOLLISTER: Thank you, Mr. President. Good morning again, colleagues. I support AM930, both amendments and the underlining bill. And I-- the reason I support this is because our current license plates, the current state issue license plates are so downright plain looking. And so in it we can choose some individual plates that please us is great. I currently have a mountain lion plate and I think that's super and I'm looking forward to a Sandhill crane plate for my wife. So I support these bills and I think this is a great opportunity for all of us to show some individuality with our license plates. Thank you, Mr. President.

FOLEY: Thank you, Senator McCollister. Senator Blood.

BLOOD: Thank you, Mr. President. I just want to slowly touch a few things, because two minutes was not a whole lot of time to really clarify what was going on. So again the price is set at \$70 because we know how important this work force is to Nebraska's work force. This is going to fund things that do not exist, such as a more appropriate Web site that is geared specifically towards the military. It could be housing, it can be economic development, it can allow for people to go from the Department of Labor or the Nebraska Department of Veterans' Affairs to job fairs at various bases. This is going to be an ongoing fund for an ongoing effort. And Nebraska right now has a flat population. We're not going to create a new work force. And although this is not my closing, I'd like to go ahead and make this my closing, Mr. President, since there's nobody else in the queue and ask that you think about the veterans' groups that came forward and how they represent thousands of Nebraska veterans, thousands. Nobody came out against this bill. This bill is in direct response to their direct and multiple requests to do something about letting the military leave Nebraska and go elsewhere to pay taxes, go elsewhere

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

Floor Debate
April 15, 2019

to live, and elsewhere to work. This is the solution that I came up with. This is the solution that had the support. Do I wish it was something else to generate revenue besides license plates? I do. But this gives Nebraska residents an opportunity to show that they are patriotic, that we honor our veterans, we support our veterans. And I know in Sarpy County, especially, and Cass County and Douglas County, because we do have the vast majority of our veterans on eastern Nebraska, we're going to see these plates on the street. And people are going to know what they're buying because it says so on the DMV Web site. And I want to remind everybody from Friday that neither the DMV, the DOL, the Nebraska Veterans' Affairs Commission, nobody came out against this bill and they told me that they did not request that the fees be changed. With that, I do ask for your green vote on my amendment and then Transportation's amendment, and ultimately, LB138. Thank you, Mr. President.

FOLEY: Thank you, Senator Blood. Members, you've heard the closing on AM930. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay.

BLOOD: Call of the house and roll call vote, please.

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

ASSISTANT CLERK: 26 ayes, 3 nays to place the house under call.

FOLEY: Members, the house is under call. All members please return to the Chamber and check in. The house is under call. Members, the house is under call. Will all senators please return to the Legislative Chamber and check in? The house is under call. Senator Hilgers, check in, please. Senator Walz, check in, please. All unexcused members are now present. The question before the body, adoption of AM930 to the committee amendment. There's been a request for a roll call vote in reverse order. Mr. Clerk, please call the roll.

ASSISTANT CLERK: (Roll call vote taken.) The vote is 35 ayes, 6 nays on the amendment to the committee amendments.

FOLEY: AM930 is adopted. I raise the call. Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senator Pansing Brooks would move to amend the committee amendments with AM1226.

Floor Debate
April 15, 2019

FOLEY: Senator Pansing Brooks, you're recognized to open on AM1226.

PANSING BROOKS: Thank you, Mr. Lieutenant Governor. Good morning, members of the body. AM1226 is a friendly amendment and I'm happy that this passed the last vote. It's an amendment to LB138 that fits perfectly as a second step to the bill. AM1226 includes an amended version of LB626, a bill I introduced this session to give special attention to veterans as a part of our state's work force development initiatives. LB626 was advanced out of the Government, Military, and Veterans Affairs Committee this last week without opposition. And I want to thank that committee for its support. Also, I want to thank Senator Blood for working with me to find a home for LB626 and prioritizing this work force development bill. I also want to thank Senators Brewer, Gragert, Crawford, Lowe, and Linehan for cosponsoring LB626. I decided to bring this bill after meeting with veterans who believe that some of our native-- neighboring states are doing a better job with direct outreach to veterans and transitioning service members, including opportunities for more on-line interaction between employers and veterans and service members seeking employment. I believe this bill acts as a beacon to veterans and transitioning service members, welcoming them to Nebraska and acknowledging the fact that we want them here because they can become a vital member of our work force. Our unemployment rate stands at 2.8 percent and is among the lowest in the nation. The Nebraska Chamber of Commerce and local chambers continue to identify work force development as our number one business issue. We simply need more people. The veterans with whom I met identified home-based Iowa as a potential model to follow. This sleek Web site presents a great on-line front door for veterans and transitioning service members to go to Iowa to work. I have passed out a screen shot from the front page of that Web site. I did it last week, so you may not have it on your desk anymore. But I encourage you to visit it on-line so you can see some of the things that we could be doing in Nebraska. LB626 amended by and turned into AM1226 provides that the Nebraska Department of Labor maintain a full-time veterans program coordinator, which they already have, to better connect veterans with Nebraska employment opportunities and increase efforts to further public awareness among veterans and their families about the benefits of living and working in Nebraska. This position must be held by a veteran. The department has already-- already has this person in a job-- has a person in the job, but I believe that putting this employment position in the statute and requiring that they be a veteran and assigning specific duties will help the state do a better job of coordinating opportunities for our veterans. Part of the feedback that I heard from some of the veterans, including the members of the Nebraska Veterans Coalition, is that the Commission on Military and Veteran Affairs should be more involved in our work force development efforts and act as an advisory board. So this bill makes the Veterans Work Force Development coordinator an ex officio member of the Commission on Military and Veterans Affairs. This coordinator will listen to advice from the commission and submit progress reports to them. I believe this level of engagement will help strengthen, coordinate, and streamline our work force development efforts for veterans and transitioning service members. As an aside, right now these efforts are being done on a county

Floor Debate
April 15, 2019

by county basis. So imagine if you're living in Iowa or Arkansas and have some family here and think about moving here, there's nothing that has been coordinated as a whole by the state of Nebraska to help you find housing, to help you find jobs. This is an important-- an important, pretty easy addition to our, to our ability to attract veterans-- attract and keep. In addition to the duties provided to the Nebraska Department of Labor, the bill also provides that the Nebraska Department of Veterans Affairs will develop a Web site in collaboration with the Department of Labor with a job search tool specific to veterans. We originally had these duties resting with the Department of Labor, but after meeting with officials from both agencies, including the Commissioner of Labor, John Albin, and Veterans' Affairs Deputy Director, John McNally, it was decided this would be a better fit in the Department of Veterans Affairs. It also fits better for funding purposes. You may see that there's a fiscal note from the Department of Labor on LB626 to be able to do the Web site. Because we are attaching AM1226 to LB138, which creates the veterans employment program and provides revenue generated to these purposes, the money that is raised can help fund the Web site and other additional issues or other additional projects to help attract and keep our veterans. We have verified this with the Department of Veterans' Affairs. I'm gratified we're able to find the perfect home for this bill and I want to thank Senator Blood again for accepting this friendly amendment. I also want to thank the veterans who came to my office and testified and helped me create this bill, including Chief Master Sergeant Ron Dupell, Chief Master Sergeant John Stewart, and Chief Warrant Officer Dean Kenkle. I ask you to vote green on AM1226 and LB138, as well as AM783 and help ensure Nebraska is a state of choice, state of choice for our veterans and transitioning service members. Thank you, Mr. Lieutenant Governor.

FOLEY: Thank you, Senator Pansing Brooks. Debate is now open on the amendment. Senator Blood.

BLOOD: Thank you, Mr. President. I rise in strong support of the Senator Pansing Brooks's bill. As we discussed on Friday, what this bill does is actually put infrastructure in place and it will be, help be funded with the motion to change the fees back up to \$70. So with that military-- excuse me, the Veterans Employment Fund now we have a platform to fund Senator Pansing Brooks's bill in addition to what the Department of Labor has already committed to. With that, I'd ask that Senator Brewer yield to a question.

FOLEY: Senator Brewer, would you yield, please?

BREWER: Yes.

Floor Debate
April 15, 2019

BLOOD: Senator Brewer, when we met in Government Committee on Senator Pansing Brooks's bill, was it your understanding that the Department of Labor was in support of this infrastructure?

BREWER: It was.

BLOOD: Thank you, Senator Brewer. I'd like to clarify, because I'm still getting questions on the floor. Nothing, nothing, nothing changes with any of this when it comes to our military honor plates. This only pertains to the Support Our Troops plates, which will go to the Veterans Employment Fund. The plates that are for the military honor for the, the various-- for the various level-- I can't think of what I want to say. Campaigns, thank you so much, Senator Brewer. For the various campaigns, that money still goes to the veterans cemetery. That has not changed. So I know we've clarified that four or five times already on the mike. I just want to say it one last time. Nothing changes with the exception of the fact that we have a one new plate that's for nonmilitary people to purchase in support of our troops where the funds go to the Veterans Employment Fund in support of this infrastructure put in place by Pansing Brooks in the Department of Labor to recruit and retain military to stay, live, and work in Nebraska. Thank you.

FOLEY: Thank you, Senator Blood. Senator Arch.

ARCH: I have a question for Senator Pansing Brooks, if she would yield.

FOLEY: Senator Pansing Brooks, will you yield, please?

PANSING BROOKS: Happy to.

ARCH: Help me understand, what happens if we don't sell enough plates. If we've mandated certain dollars or we've mandated a certain activity to be funded by these plates and for whatever reason-- I mean, I think somebody estimated 150 and I've heard a thousand. But what happens if we don't have enough funding for that? What, what happens to the activities that are mandated?

PANSING BROOKS: I think that some of the original activities were, were setting, you know, working with the Department of Military and Veterans Affairs-- am I saying that correctly-- to help get this up and going and to keep that Web site going. As you know, some of the initial cost is in creating and keeping the Web site going. They do not believe that there will be very much cost at all. I've talked to them and I think initially they think it could be \$25,000, not the-- so I think that they've indicated there shouldn't be a problem. I can say, how long will this run out and

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

Floor Debate
April 15, 2019

how many do we need to have to be able to do this? But they are not concerned about this right now.

ARCH: But the, but the requirements in AM1226 is not just the Web site. Is that correct?

PANSING BROOKS: No, it's, it's for the Web site. But it also allows them to broaden what they're doing and to be able-- like it-- the Web site can include housing, it can include job searches. I don't know. We haven't limited it because we want people to come here. So by allowing that department to go forward and broaden its abilities, that, that's why we didn't limit it.

ARCH: My concern is, obviously, that if we start something with, with special funding off of these plates and for whatever reason enough plates aren't sold, then suddenly we're back to the General Fund again in order to maintain the Web site in order to keep things going, I-- that's-- so that was the basis of my questions for this.

PANSING BROOKS: The Web site was the only portion that had any fiscal cost and that was by the Department of Labor and they've all agreed that that all goes away, so.

ARCH: Thank you.

PANSING BROOKS: Thank you.

ARCH: Thank you, Mr. President.

FOLEY: Thank you, Senators Arch and Senator Pansing Brooks. Senator Bostelman.

BOSTELMAN: Thank you, Mr. President. I think Senator Arch kind of touched on a couple of things. I want-- I talked with Senator Pansing Brooks off the mike on-- there's one other thing. I guess I have a question for Senator Pansing Brooks if she would yield.

FOLEY: Senator Pansing Brooks, will you yield, please?

PANSING BROOKS: Yes, I'm happy to.

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

Floor Debate
April 15, 2019

BOSTELMAN: Thank you. One other-- the funding really isn't needed per se for this, because one part of the bill is, is the funding doesn't come in until '21. So we've got until 2021 till the plates actually take effect.

PANSING BROOKS: That's correct.

BOSTLEMAN: So I think this kind of comes back to what Senator Arch is talking about that this-- we're not creating a position or creating an area that requires the funding from the plates. And if the funding from the plates is not there, it's not going to make a difference. Is that correct?

PANSING BROOKS: That's correct. And the Department of Veterans' Affairs is already working on a Web site right now. There is a Web site. But the goal is to beef it up, make it more-- right now, as I said, what's happening is if a veteran wants to move back here, he has to figure out what county it is and try to go to that county and see if there's anything on a Web site. This presents a central common area. And if you look at the home-based Iowa and what they're doing to attract veterans, you'll see how important this is. And, you know, when you think about Offutt and the high level of people that are there working at Offutt and the amazing, you know, level of education and we're doing nothing to try to encourage them. Well, not nothing, but we are-- we could be doing a lot more to encourage them to stay here, to work here, and be a part of our community. Let alone all over the state, too, but--

BOSTELMAN: Sure, sure. One other thought, and you may have said this in your opening or when you opened as well on it is, does this connect in with our Veteran Service Officers in our counties? Does that kind of get connected in with that as well to help them?

PANSING BROOKS: Yes. That's what the Department of Veterans' Affairs does, is that they will connect and they are working to really pull this all together as a unified Internet site across the state. And then, again, the other portion of it is to have somebody have the person from the Department of Labor be an ex officio member so that they can all be coordinating and working together, because the veterans with whom I spoke think it is not working well right now at all.

BOSTELMAN: And that ex officio is not a new created position, it's there already, is what was stated before. Correct?

PANSING BROOKS: The person from the Department of Labor is currently not on that commission. So all it does is allow the person from the Department of Labor to be an ex officio, nonvoting member.

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

Floor Debate
April 15, 2019

BOSTELMAN: Sure. OK, thank you.

PANSING BROOKS: Thank you.

BOSTELMAN: Thank you, Mr. Sp-- Mr. President. I'd yield the rest of my time back to the Chair.

FOLEY: Thank you, Senator Bostelman and Senator Pansing Brooks. (Visitors introduced.) Continuing discussion. Senator Ben Hansen.

B. HANSEN: Thank you, Mr. President. I think Senator Bostelman touched on kind of one of my main questions. I was wondering if Senator Pansing Brooks would yield to a question.

FOLEY: Senator Pansing Brooks, would you yield, please?

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

B. HANSEN: Thank you. And it's probably something I could ask maybe off the mike, too, but just I wanted just a little clarification for me is, we are not-- and from my understanding, you said the Department of Labor already has a position in place that would fill this. So we're not going to hire a new position for this at all?

PANSING BROOKS: No.

B. HANSEN: OK. That's what I wanted to make sure. OK. And so I appreciate that. And one other question is, is do you see any issue with money going-- from my understanding I think Senator Blood's money that she's going to be raised from the license plate, will that go to the Department of Labor or the Department of Veteran Affairs?

PANSING BROOKS: It's my understanding it goes to the Department of Veteran Affairs, yes. Because, because that's who's going to be running the Web site and working with the Department of Labor on this.

B. HANSEN: OK. And then your bill deals with the Department of Labor?

PANSING BROOKS: No. The amendment shows that-- I mean, the department-- it deals with both, the Department of Labor--

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

Floor Debate
April 15, 2019

B. HANSEN: OK. That's why I was wondering if there was any kind of-- do you see any issue with money going to one department and trying to pay for somebody else in a different position in another department?

PANSING BROOKS: No. That's not what's happening. I'm sorry if there's some confusion.

B. HANSEN: OK. It's probably me, so--

PANSING BROOKS: Well, the-- so what's happening is there's going to be an-- it originally was going to go to the Department of Labor. The Department of Labor decided that they needed to hire somebody to handle this, even though they do have somebody in the position. So what happened is that we spoke with the department and the military officers who came to me, spoke with the-- also, the Department of Veterans' Affairs and they said, well, we've got a Web site, we can beef it up. And we don't need this giant fiscal note that the Department of Labor decided they were going to hire somebody. So what's happened is, we're doing two things. Number one, we're allowing a person from the Department of Labor to act as an ex officio member on that Military Commission and then we're also allowing the money that's coming from the license plates to help fund all of this effort to bring veterans back to Nebraska and to keep them here.

B. HANSEN: OK. Thank you. Appreciate it.

PANSING BROOKS: Thank you.

B. HANSEN: And I do want to applaud Senator Pansing Brooks for tackling the Web site, updating the Web site, giving our veterans some more tools in their tool box to become a good member of our work force in the state of Nebraska. So I do thank you for that. Thank you, Mr. Chair.

FOLEY: Thank you, Senator Hansen and Senator Pansing Brooks. Is there any further discussion on the amendment? I see none. Senator Pansing Brooks, you're recognized to close on AM1226. She waives closing. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 31 ayes, 0 nays on the adoption of the amendment.

FOLEY: AM1226 is adopted. Is there further discussion on the bill or the Transportation Committee amendment? Senator Bostelman.

Floor Debate
April 15, 2019

BOSTELMAN: Thank you, Mr. President. Good morning, colleagues. Good morning, Nebraska. I'd like to thank Senator Blood for allowing me to amend LB696 and LB697 into LB138, using AM783. The two bills included in the committee amendment are as follows. LB696 creates two separate plates for the National Guard Military Honor plate to differentiate between the Army National Guard and the Air National Guard. LB697 would remove the license plate fee for certain Department of Veterans' Affairs qualified veterans license plates. Those plates include: Pearl Harbor plates, Gold Star Family plates, Prisoner of War plates, Disabled Veteran plates, and Purple Heart plates. Beginning July 1, 2021, no license plate fee for these alpha numeric plates shall be charged and license plates issued under this section shall not require the payment of any additional license plate fees and shall be permanently attached to the vehicle to which the plates are assigned for those who are qualified as long as the vehicle is property registered annually. The current alpha numeric license plate fee associated with the majority of these plates is \$3.50. The modest income gained by the Gold Star, Prisoner of War, Pearl Harbor, Purple Heart, and Disabled Veterans plates should not outweigh the policy of recognizing and supporting these veterans and their families. And one way to do this would be to allow these plates to be available to such individuals without a fee. I, therefore, request your support for LB138 and AM738 or LB783. Thank you, Mr. President.

FOLEY: Thank you, Senator Bostelman. I see no further discussion on the bill or the amendment. Senator Friesen, you're recognized to close on the committee amendment. He waives closing. The question before the body is the adoption of the committee amendment, AM783. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

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

FOLEY: AM783 is adopted. Further discussion on the bill as amended? Senator Chambers.

CHAMBERS: Thank you. Mr. President, members of the Legislature, I wanted all of the amendments related to these various plates that directly, in the case of Senator Blood's amendment, will benefit veterans, then the others tangentially. I wanted all those to be out of the way so that nothing I say will hinder the adoption of those amendments, and because they're attached to a bill that definitely will move forward, I'm going to make my comments on the bill. I still feel what I've always said about the flag, but this morning my comments are not about the flag. My comments are about the way you all sit back quietly and allow those who defend this flag to be mistreated by a racist, white supremacist, hateful man who sits in the White House. I'm looking at the fact that because a person is transgender that status does not remove that individual from the human race. It does not mean that person has less innate human dignity or that that person is less entitled than anybody else to treatment that could be described as decent

Floor Debate
April 15, 2019

and respectful and the way we, ourselves, would like to be treated. There are people who've been in the military for many, many years and are transgender and now they've been given officially by you all's President-- because he's the President of white people-- not all white people even-- but he certainly is not the President of black people, people of color, or members of the LGBTQ community. He has taken the scarlet letter and branded all of those people who are in the military and hold that status. How can this Legislature not respond to that? When people are flooded out, they can replace a house. They can replace a barn. They can replace livestock. But when you're stripped of your humanity and personal dignity, that cannot be replaced. You cannot purchase it. And the one who took it is gloating, I'm sure. You all don't have to cope with any of these things that I talk about on this floor. You don't have to get up in the morning and wonder what kind of problems you're going to encounter this day that the privileged white people don't even have to think about. Then if you say something about it, you are condemned for telling somebody "you're standing on my foot, get off my foot." Then you are the one who is condemned, and because of that you will never have large numbers of people speaking the way I do. They would like to, but they can see what will happen if they do that. I won't be there to protect them all the time. Nobody is going to protect them. And if you saw the news, you would have seen where this transgender person was assaulted by a mob, physically, on the ground, beaten and kicked, and people cheering--

FOLEY: One minute.

CHAMBERS: --on the mob. And that, brothers and sisters, is America. That is the American way. That flag, which I've called a rag, does not protect those people. And I was deeply offended this morning, even more so than usual, when somebody stood up and articulated that ongoing lie, with liberty and justice for all. I wonder if the one who led that political prayer had been the one on the ground being beaten and kicked under that flag would feel the same way. You all who have these benefits, be glad that you've got them. You may lose them, because, as quiet as its kept, the U.S. Constitution is the perfect blueprint for a constitutional--

FOLEY: That's time, Senator.

CHAMBERS: Excuse me?

FOLEY: That's time, Senator.

CHAMBERS: Thank you.

Floor Debate
April 15, 2019

FOLEY: Thank you, Senator Chambers. (Visitors introduced.) Senator Chambers, you may proceed.

CHAMBERS: Thank you, Mr. President. As I was going to say, the U.S. Constitution is a perfect blueprint for a constitutional dictatorship, and you can see it forming now. This man sitting in the White House declared Jerusalem to be the capitol of Israel. There's a dispute going on about that internationally. He has single-handedly recognized Israel's right, as he calls it, to annex territory that does not belong to Israel. Israel-- and I want all those who attacked Ilhan Omar to listen and attack me. Israel is a neo-Nazi country. They hide behind what they call their Jewishness, but they implement practices of the Nazis. Their own supreme court had to swat down activities of Netanyahu, which were discriminatory toward Africans who were foolish enough because they are Jews to come to Israel. They're segregated, they're discriminated against, they're allowed in the military because anybody will be put into the military. Israel is a hateful little country. What you all don't realize is that Arabs are Semitic people. If you hate Arabs, you're anti-Semitic. But the Jews like Netanyahu have co-opted that term, to try to protect what he does, and to criticize the neo-Nazi activities of Israel, which are crystal clear. All they have to do is run up the bloody shirt of anti-Semitism. It doesn't work with me. I know what those kind of people are and I know how to deal with them and I know how they have to be dealt with. Netanyahu is running the risk of being indicted for various charges of corruption. And your President supported him, to get him elected. And he's giving Israel a shield that will allow them to begin to threaten their neighbors. Israel is in a position to attack other countries. Other countries are attacked as Israel gives direction. Israel directed Trump to take additional action against Iran. So what Trump did was take that guard in Iran-- they're an elite guard, and declare them international terrorists. Then the United States military, comprises international terrorists also, because they are in other countries attacking people in the war in Yemen, if you want to call it a war, conducted by the Saudis. American planes are giving military aid. They are refueling in the air those planes that are bombing civilians and those are war crimes. That makes America a terrorist nation. It makes their military an international terrorist organization. You all don't want to look at the facts and the reality. You don't want your imagination, you don't want your propaganda to ever be befuddled by the facts. So you're told what to think.

FOLEY: One minute.

CHAMBERS: And if other countries did what America is doing all over the world, you see what America says about it. You see America interfering in the internal affairs of Venezuela. They had Pompeo, the puppet, to attack China and condemn China by saying that by dealing with Venezuela in the way China does they're upholding a regime that America disapproves of. I'm going to put on my light. Thank you, Mr. President.

Floor Debate
April 15, 2019

FOLEY: Thank you, Senator Chambers. You may continue in your third opportunity.

CHAMBERS: I want you to see what a coward your President is. When you all condemn me, you condemn me for going after that rag, and you have a lot of company with you. You have officials, you have racists all over the country calling in the threats, sending me the mail. But I come here every day and I hold my ground and I still do it. When I criticize those who are hurtful to black people, I criticize the police, all of whom are armed, all of whom can harass me whenever they choose if they choose to do so. But you don't see me trying to draw hateful people into making threats against the life of a woman. Your white President, who stands for what you all are-- this is a headline in the Lincoln Journal Star this morning, and the World-Herald did not touch it. "Pelosi Chides Trump Over Video". Sub-head: President's retweet prompts increase in security for Representative Omar. House Speaker Nancy Pelosi said Sunday: She has taken steps to ensure the safety of Representative Omar after President Donald Trump's retweet of a video that purports to show the Minnesota Democrat being dismissive of the September 11 terrorist attacks. The California Democrat also called on Trump to take down the video. Soon after her public request the video was no longer pinned atop Trump's twitter feed, but it was not deleted. Pelosi was among Democrats who had criticized Trump over the tweet with some accusing him of trying to incite violence against the Muslim lawmaker. An upstate New York man recently was charged with making death threats against her-- brave white men; brave white men. It is hard for me to come to this place and limit myself to English instead of profanity that your President regularly uses and directs toward others. Suppose I let loose with a string of profanity on this floor as he has done against black countries, against others he doesn't like, black athletes? You all would be condemning me, wouldn't you? But I tell you, since I'm not a Christian and my standards are too high, I will not stoop to the profanity. But here is a man in the White House trying to incite violence against a woman who is not white, who is speaking. You all-- and I'm going to have to let this bill go and talk on another bill. You all love to talk about the first amendment, not as much as the second amendment, and emphasize freedom of speech. A person has freedom of speech in this country as long as that speech is approved of by white people. As soon as you say something they don't like, then they make threats, they try to incite other people to commit violence against you, and I know this from experience. So you have freedom of speech until you use it, if you're foolish enough to use it, if you're determined enough to speak what's on your mind no matter what they do to try to silence you. Have I ever tried to get any help on this floor to stand up with me? No. And I will not do it, because nobody on this floor believes as I believe, so nobody else on this floor will express the statements that I express about--

FOLEY: One minute.

CHAMBERS: --certain subjects, as I will. But I'm going to continue do it. And when you talk about freedom of speech, I'm going to laugh at you. Every time you give that hypocritical prayer

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

Floor Debate
April 15, 2019

to that rag, I'm going to mock you. Every time you have a Christian or other preacher up there, I'm going to mock you the way God's prophet mocked the gods of other people who prayed to their god and no answer came. These preachers say the same thing every morning, ask for the same things day after day after day. And I'm going to say like the prophet of God, where is your god? Why will your god not answer? Are his ears stopped? Is he talking to somebody? Is he on vacation? Does he disregard you? But maybe there is a way to account for why God doesn't answer you. The "Bible" also says: The effectual, fervent prayer of a righteous man availeth much. Nobody up there is righteous or he's praying to a false god or a god who is deaf.

FOLEY: That's time, Senator.

CHAMBERS: Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Blood, you're recognized to close on the advance of the bill. She waives closing. The question before the body is the advancement of LB138 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 37 ayes, 0 nays on the advancement of the bill.

FOLEY: LB138 advances. We'll proceed to the next-- I'm sorry. Items for the record, please.

ASSISTANT CLERK: Thank you, Mr. President. LB670A, introduced by Senator Linehan. (Read LB670A by title for the first time.) Your Committee on Enrollment and Review reports LB227 and LB616 to Select File, with both having E&R amendments. Additionally, your Committee on Enrollment and Review reports LB15, LB59, LB87, LB212, LB218, LB268, LB316, LB320, LB352, LB390, LB472, LB514, LB603, LB637, LB713, and LR14CA as correctly engrossed and placed on Final Reading. That's all I have at this time, Mr. President.

FOLEY: Thank you, Mr. Clerk. LB538, please.

ASSISTANT CLERK: LB538 was introduced by Senator Lathrop. (Read title.) The bill was read for the first time on January 22 of this year and referred to the General Affairs Committee. That committee reports the bill to General File with committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Lathrop, you're recognized to open on LB538.

Floor Debate
April 15, 2019

LATHROP: Thank you, Mr. President, and colleagues. LB538 is a bill with a very simple goal, and that is to provide Nebraska with a better way to enforce the state's constitutional prohibition on games of chance. Specifically, we're trying to address the proliferation of so-called touch-skilled games that are found in bars, gas stations, even grocery stores across the state. The term "touch skill" is, in many cases, a misnomer. A large number of these games involve no skill at all. They're basically video slot machines that are predominantly games of chance. Players place wagers, press a button or two, and if they're lucky, receive some kind of monetary prize. There are hundreds, if not thousands, of these games across the state, and for reasons you'll hear about later on in the debate, it has proven highly difficult for law enforcement to determine which games are truly skill-based and which games violate the law. The current process, colleagues, is for the state patrol to go and confiscate a machine, take it back to the state patrol, and test it to determine whether it is a game of chance or a game of skill. LB538 creates a front-end process by which the Department of Revenue can vet these devices before they're installed. Under this bill, the game distributor brings a sample of each device plus supporting evidence to the Revenue Department so the tax commissioner can make a determination as to whether each game is primarily skill- or chance-based. That determination will now have a set of more concrete criteria to work with. If deemed a game of skill, each device of that particular design is issued a stamp which must be renewed on an annual basis. If the device is deemed a game of chance, the application is rejected, and the distributor is advised that installing the device would be a violation of the law. The entire process is appealable under the Administrative Procedures Act. We have a couple of amendments which resulted from months of collaboration between my office, the General Affairs Committee, and various stakeholders including the Governor's Office. Those amendments make various technical changes to the bill, including the fees and penalties, and I also add protections to bar owners and other operators across the state. I'll explain those in more detail in my next time at the mike. I want to thank the Governor's Office, Senator Briese, and the General Affairs Committee for their engagement, as well as Senator Albrecht, who has an interest in the matter. And with that, I would ask for your support of LB538. Thank you, Mr. President.

FOLEY: Thank you, Senator Lathrop. (Visitors introduced.) As the Clerk indicated, there are amendments from the General Affairs Committee. Senator Briese, as Chair of the committee, would you please open on the committee amendments, AM900.

BRIESE: Thank you, Mr. President, and good morning, colleagues. I rise today to introduce AM900, which is the committee amendment to LB538. LB538 was heard by the General Affairs Committee on February 11th. The committee advanced LB538 after adoption of AM900, which is the white-copy amendment which would replace the bill. AM900 was adopted to address some of the concerns brought about during the public hearing and following discussions. In its simplest terms, AM900 provides that any mechanical amusement device that is a cash device must be predominantly a game of skill to be authorized. AM900 changes the original bill and

Floor Debate
April 15, 2019

accomplishes the following: Section 1 provides legal protection for retailers who have devices on their premises to the extent they have an unexpired mechanical amusement device decal. Section 2 provides definitions and clarifies additional necessary terms. Section 3 allows the Department of Revenue to seize any device that's a cash device and does not bear the required decal. It provides a procedure to obtain such a decal, provides the decal is distinct from other mechanical amusement-device decals. It further defines a game of skill and what factors and consideration the tax commissioner can use in determining whether the device is a game of skill, predominantly a game of skill, or a game of chance. It requires a fee and sets a 45-day requirement for the tax commissioner to notify an applicant if the application is approved or denied, and provides for an administrative appeal of an adverse decision. Further requires an affidavit from the distributor of the device affirming that no functional changes in hardware or software will be made to the device without further approval. It also provides for issuance of a decal from the department upon approval of an application and a determination that the cash device is a game of skill. It authorizes the department to seize any mechanical amusement device if there's cause to believe such a device is not in compliance with this act or any rules or regulations promulgated under the act. Section 4 increases the \$35 fee that is paid each year for mechanical amusement devices to \$250 for a cash device, and Section 5 requires the commissioner to promulgate and adopt the rules and regulations to implement this act dealing with the application and determination process to be used. Section 7 reaffirms that language does not preempt local control of these items. Section 8 reaffirms a three-year statute of limitations for prosecutions under the act, and Section 10 provides for an operative date of the bill of November 1, 2019. Again, the committee amendment was adopted to address some of the concerns discussed and helps clarify portions of the original language of LB538 and AM900 is a white-copy amendment that would replace the bill. It is my understanding there are going to be additional amendments, at least one amendment by Senator Lathrop and then maybe other, that helps address and remedy additional concerns brought by interested parties, including Governor's Policy Research Office and others to provide additional clarity to the process and ensure that the department has the time and the ability to fully implement this bill, and that the manufacturers, owners, and operators understand what is required of them and have notice of what is required of them. I would ask for your support of AM900 but look forward to the discussion on the further amendments. Thank you, Mr. President.

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

ASSISTANT CLERK: Thank you, Mr. President. AM1278-- sorry --AM1229 from Senator Lathrop. I have a note that you wish to withdraw that, Senator?

LATHROP: I do want to withdraw AM1229 and AM1267 and proceed to open on AM1278.

Floor Debate
April 15, 2019

FOLEY: The amendments are withdrawn. Mr. Clerk, the next amendment.

ASSISTANT CLERK: Mr. President, Senator Lathrop would move to amend with AM1278.

FOLEY: Senator Lathrop, you're recognized to open on AM1278.

LATHROP: Thank you, Mr. President. And, colleagues, as you might imagine given the subject matter, once this bill came out of General Affairs, the discussion or the conversation continued to try with Policy Research Office, Governor's Office, and stakeholders to try to refine the bill to a better form. I believe that's the case with AM1278, which is also a white-copy amendment that makes a handful of changes beyond those already listed by Senator Briese in AM900. These changes are the result of collaboration between my office, the Governor's Policy Research Office, and I want to thank them for working with us through this process. The changes in the amendment include the following: Number one. Eliminating an occupation tax as the funding mechanism for the bill and replacing it with two fees. The application fee is a one-time fee to cover the cost of examining each specimen or unique model of device. The decal fee is paid annually and applies to each individual device of the same configuration. Number two. We have also modified the amounts of the application and renewal fees in response to ongoing discussions with Policy Research. The goal is to set the fees at an amount that covers the Revenue's Department costs associated with conducting these evaluations. This amendment-- the third thing. This amendment also tightens up some of the enforcement components of the bill including which devices are subject to seizure and which are not. And number four. Another change as to the clarity of the role of the independent lab in testing the devices and providing documentation to aid the tax commissioner in making a final determination. And finally, we have delayed the operative date of the act to give the Revenue Department, and the owners and operators, and so forth, time to adopt-- the department will adopt the rules and regulations, and then these folks need some time to get their machines evaluated. Once again, I'd like to thank everyone who has worked with us on this very important bill and amendment. I understand it is somewhat involved, and I'm happy to answer questions. I would ask for your support of AM1278, and I'll make this observation, colleagues, that this bill is intended to do one thing, and that is to make a-- develop a process so that we can make a determination in advance instead of going out to a bar owner or the VFW or wherever these machines may be found and seizing them and doing this one machine at a time. It's impractical. We now have a front-loaded opportunity to have machines approved. Once they're approved, they're not subject to seizure. All you need is a decal to show that it is an approved machine. It is a far more efficient way to enforce the law, and it also provides reasonable criteria for what's a game of chance versus what is a game of skill. I would appreciate your support of AM1278, the committee's amendment, and LB538. Thank you.

Floor Debate
April 15, 2019

FOLEY: Thank you, Senator Lathrop. Debate is now open on LB538, the committee amendment and the amendment to the committee amendments. Senator Chambers.

CHAMBERS: Thank you. Mr. President, members of the Legislature, I don't know how many times I'll speak on this bill, but I have something that's weighing far more heavily on my mind than this particular bill. I notice that the lord is with me this morning. See, when children are in the balcony, I will restrain myself. Other business was transacted while a host of little ones were up there. Then, as the time drew near or the Bible would say, as the time drew nigh when I would be able to speak, the little children left, and the field is now open for me. And I'm going to use this bill for my purposes. There are some senators-- and they know who they are --who wrote some very negative letters to the editor about what was happening at the University of Nebraska with reference to these so-called conservatives being harassed and denied their right to freedom of speech. They even wanted some actions of the negative kind taken against some professors with whom they disagreed. Those senators are here. They're not going to speak on this that I'm talking about because they're not interested in free speech. They want to silence speech that they disapprove of. I was shown that Bob Kerrey has declined the invitation to speak at Creighton, and those senators, the three of them, the three musketeers, three mouseketeers, three stooges ought to be on the floor condemning their Republican Party about injecting themselves into this invitation extended by Creighton to a former Governor of Nebraska, a former U.S. Senator from Nebraska, so that rather than create a distraction, he withdrew, declined the invitation. What becomes of freedom of speech? Where is it, all you hypocrites? Where are you? Quiet as mice because that's what you are. You like to speak theoretically, and when a genuine, live issue comes before us, you ignore it. Your young people know what you're doing, what you're not doing. You're not an example for them. I get letters from your young white kids about the example that I set for them, and that they wish the other senators would speak up. Well, you all can speak up. You have a voice. Some of you are learned in the Constitution. Some of you have law degrees. I see Senator Hilgers walking in. I think he served as a clerk for a judge or something or other. And then when an attack is made on a Jesuit university for extending an invitation to a former Nebraska official to give an address at that university, the "Repelican" party called out all of the hatefulness that typifies that party and the members of it. I hear it on this floor. They pop in and out only when they're carrying out the Governor's orders. Where are they now? And when you send children into an adult situation, those children do not know how to behave. They run around, they skip around, they bounce and flounce like children considering going to a high school prom. We're supposed to be dealing very serious matters. In a democracy, as I was taught in all the years that I was in school and they talked about civics, that freedom of speech--

FOLEY: One minute.

Floor Debate
April 15, 2019

CHAMBERS: --is very important to democracy, that it is essential, and the government must be very careful about infringing on the right of free speech, no matter how hateful, no matter how contentious, no matter how objectionable. And in a democracy, that kind of speech is counteracted by speech on the other side, but the hypocrites on this body, in this body, watched how their Republican Party squelched an invitation extended to a high-ranking, former Nebraska official because he is pro-life, and Creighton is a Catholic university. And these hypocrites on this floor said nothing about it. Well, I'm going to start calling them out when they bring up issues on this floor and I think it's appropriate. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Arch.

ARCH: Thank you, Mr. President. Senator Lathrop, if you would yield to some questions.

FOLEY: Senator Lathrop, would you yield, please?

LATHROP: Yes, I'd be happy to.

ARCH: So as I understand the amendment now, because we heard the bill in committee, as I understand the amendment now, on page 5, the delineation of what-- what amounts to a game of skill has-- has been clarified, is that correct?

LATHROP: I think so. I think that's one of the significant features of the bill.

ARCH: Is there any ability for-- first of all, it does not require the amusement device manufacturer to go to a third party outside. They may do that, correct?

LATHROP: That's true.

ARCH: And so, they may simply produce their own evidence that would be reviewed by the tax commissioner for the final determination?

LATHROP: That's true too.

ARCH: So, does the-- if they do go to a third party, is there any freedom on the third-party's action to go outside of those things that are specified in page 5 and 6?

Floor Debate
April 15, 2019

LATHROP: I think they can bring whatever information they like into whatever report they generate after they look at a particular machine, but at the end of the day the criteria that will guide the tax commissioner are those set out in the bill.

ARCH: OK.

LATHROP: But one-- for example though and I don't want to chew up your time but--

ARCH: Go ahead.

LATHROP: --one of the things that comes up in these is the reaction time required of the person that's playing humanly possible, or possible by the average person. If you take it to company A, they may need to talk to company B about reaction time, and that gets incorporated into a report and then provided along with the specimen to the Department of Revenue.

ARCH: Okay, thank you. I know that in side conversations there was some discussion as to whether or not there should be-- should be some stipulations on age of the players, number of machines at a particular location. Your thoughts on that?

LATHROP: Well, here are my thoughts. This bill could have done a lot of things, I suppose. I could have-- I could have required a tax on the machines that make it through as a game of skill. At some point I have to decide what I think I can get passed on the floor. I think this makes a significant movement in delineating games of chance versus games of skill. That doesn't mean that next year we can't set an age limit on games of skill. Next year if the body chooses to and somebody brings a bill and they want to tax those machines that are games of skill, then we can take those up at that time, but my goal was to work on enforcement and delineating what's a game of skill versus a game of chance.

ARCH: I appreciate that last comment about willingness to take another look at this as we continue the discussion because we know that we're in gray zone. I mean, I think that's how they refer to them, as gray machines, but we know we're in a gray zone here where one little tweak one way or another, you are suddenly without a doubt on the gambling side, or certainly if it was a video game without any type of cash payout, you'd be on the video game side. And so I think that the refinement, the ongoing refinement of something like this will be necessary in the future, but that's my comment. Thank you. Thank you.

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

Floor Debate
April 15, 2019

WAYNE: Thank you, Mr. President. Thank you, colleagues. Colleagues, I'm not going to speak a whole lot on this bill, but I am going to ask some questions and get some-- a better understanding of what's going on. And here's what I would tell you generally, colleagues. If you care about your constitutional rights, this bill flips it. This bill says that you will send in a device that could or could not be deemed a criminal act. Now, nowhere else in our statutes do we take away the right to not self-incriminate, but we do here. You send in to the Department of Revenue a gaming device with your data, and they can deem it a gaming device and not a-- or a game of skill, not a game of chance, or a game of chance, not a game of skill. Why is that important? Because having possession of a gambling device is a Class II misdemeanor. What other area of law do we say, here you go, government, and if I possess it-- and there's a court case that says if it's been played recently, if it's been played at all in your establishment, then it is a burden of you-- they don't have to prove intent. The intent is already there because it's being played and because this game has no other intended use, it is gambling, therefore, you committed a crime. That went all the way to Supreme Court. That is a fundamental issue I have as a criminal defense attorney, and think about that. Now I want to key in on some key words that were in the opening of Senator Lathrop's opening. He used the word "confiscate". Right now, they can't go in and confiscate because it's too hard to regulate. Gun owners, how would you feel if somebody couldn't come in and take something from you, that they just-- you send it off and say, hey, tell me if this gun is legal or not legal, and if it's legal, they're just going to take it from you. So there's actually a problem there. When you use the word "confiscate", that is a hundred percent the issue here. And let me give you another example and I'm going to ask-- this actually through some questions of Senator Lathrop. Senator Lathrop, will you yield to a question?

FOLEY: Senator Lathrop, will you yield, please?

LATHROP: Yes.

WAYNE: If I am a distributor of a gaming device, do I have to go through this process?

LATHROP: If you're a distributor-- the manufacturer or distributor, yes.

WAYNE: Even though I don't sell anything in the state of Nebraska, do I have to go through this process?

LATHROP: If you're not going to do business in the state of Nebraska, there's no reason to.

WAYNE: That's not what the law says in this bill, does it? It says if you are a manufacturer of a gaming device, you have to submit, correct?

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

Floor Debate
April 15, 2019

LATHROP: Yes, if you're going to do business in the state of Nebraska. The purpose is to get a stamp so that you can place the machines in the state of Nebraska. If all you want to do is do them in Florida, nobody is concerned with whether you have your machine validated by the Nebraska tax commissioner.

WAYNE: But it does matter underneath the amendment, because you only give the affirmative defense to the retail owner, not the manufacturer, correct?

LATHROP: The retail person is-- basically can't be prosecuted if he's got the decal that shows the manufacturer or distributor got the specimen and all like machines approved by the tax commissioner.

WAYNE: So if you sell-- and you don't have an affirmative defense, you are now committing a crime. And right now, though you're not doing any business in the state of Nebraska nobody cares, but underneath this, I would have to submit something to the Department of Revenue. Let's go a little bit farther here and talk a little bit about this preapproved process. Underneath your bill and amendment, the third-party testing authority, does that have to be approved by the Department of Revenue?

LATHROP: The Department of Revenue, I-- what section are you in?

WAYNE: Where it says preapproving. I'll have to get the exact section number.

FOLEY: One minute.

WAYNE: From my understanding of the bill, the preapproved has to be done by the tax commissioner. Is that correct or incorrect?

LATHROP: Definitely. The tax commissioner is the one ultimately responsible for determining whether a machine is on one side of the criteria or the other.

WAYNE: So the tax commissioner is determining who can preapprove or not. At the same time we're submitting them an application to make this to be unbiased. So they have total control over whether this is a gaming device or not. They could only approve maybe people who they think-- well, all devices are gaming, correct?

LATHROP: No.

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

Floor Debate
April 15, 2019

WAYNE: So there's the independent?

LATHROP: They can indicate independent labs whose information they will accept as part of the process. But the same problem works the other way--

FOLEY: That's time. That's time.

LATHROP: --somebody that wants to get all these things approved.

FOLEY: Thank you, Senator Wayne, and Senator Lathrop, time's up. Senator Albrecht.

ALBRECHT: Thank you, President Foley. I do rise today just to let the state of Nebraska know that I do not like gambling. How I ended up with this bill, LB722, which was introduced to Senator Briese's committee late in the game, I do believe that we as senators have been working together. I do have a few questions for Senator Lathrop that did come to me overnight. Senator, would you yield to a question?

FOLEY: Senator Lathrop, would you yield, please?

LATHROP: Sure.

ALBRECHT: Okay. One of the questions is, what specifically is supposed to be a game of skill versus that gray machine that is just a gaming machine?

LATHROP: So, maybe what's helpful, Senator Albrecht, is for people to have a better understanding of the machines we're talking about. You walk into a bar, it could be freestanding, or it could be something sitting on the-- at the end of the bar. You pull up a bar stool and you play these things. The thing that they have in common is the video monitor, and you put money in them, and there's some interaction with the machine. Right? So far. That's the kind of thing we're talking about and these things are proliferating. Some are skilled, require some degree of skill, some require just chance. Mostly what the bill does is identify the group that are games of chance. Those, for example, and I think the easiest way to understand the criteria is, if the machine is programmed and you play it a hundred times, so many people are going to win and so many people are going to lose, and there's nothing the person that's pushing the buttons can do to change those odds.

Floor Debate
April 15, 2019

ALBRECHT: Okay. Here are three things that-- I want to listen to the conversation. Maybe we'll get through with this before lunch, maybe we won't. But the three things that are of concern to me is, do these machines accept credit cards currently. Senator Lathrop, do you know that? Would you yield to a question?

LATHROP: I would be happy to yield to a question. I don't know the answer to that, Senator Albrecht, but I'll find out.

ALBRECHT: Okay. So we'll find that one out. And is there a limit to the number of machines that we will put in an establishment? Is that inside the bill at all?

LATHROP: No, it's not.

ALBRECHT: Okay. Thank you.

LATHROP: And by that you mean a game of skill, how many would we limit.

ALBRECHT: A game of skill that is currently legal in Nebraska. Right.

LATHROP: Yes, no limit, to my knowledge.

ALBRECHT: Okay. So how about, is there an age limit to playing these machines currently? Skill or non-skill to your knowledge?

LATHROP: To my knowledge there-- well, even the games of skill, I don't believe, because that's the question. We would eliminate the games of chance, so the games of skill are left, and I don't know that there's an age limit on those.

ALBRECHT: Okay, very good. Thank you. So I rise today to look at the side of regulating these machines, not expanding gambling. When it comes to a game of skill, obviously there's been a court case. I couldn't tell you all of the particulars of it that a game of skill, if it's 51 percent that people have to touch the machine to make it do whatever it does. My concern with the gaming aspect of it, is that a ticket comes out and pays you, or on the front of the machine it says that you can win up to \$3,000 or \$1,250 or whatever it is that it may do. I want to take a look at strengthening this bill. If we are going to do this, I want to go forward with whatever conversation we have, but I do have a couple of amendments, or just one that I hope with talking about age limit, talking about number of machines, and talking about no credit cards.

Floor Debate
April 15, 2019

FOLEY: One minute.

ALBRECHT: Thank you.

FOLEY: You have one minute. Do you want to use that, Senator?

ALBRECHT: Oh, I'm sorry. Okay. So a couple of other questions that were sent to me last evening. Will each new machine be tested or each type? It's my understanding, I have read AM1278, I do understand that the tax commissioner will decide who is going to check those machines out, and I do understand that the distributors of those machines have to get those machines passed before they go into any establishment to be played. So I'm understanding of that. Who's responsible for the testing of the machines? Again, it will be the Nebraska Department of Revenue. We'll have an independent lab that will test these machines. And what is the penalty for violations? A thousand dollars is what I read inside of the bill that was never there before. So some of those things when I read through them, they do strengthen what is happening today because if, in fact--

FOLEY: That's time, Senator.

ALBRECHT: Okay. Thank you.

FOLEY: Thank you, Senator Albrecht. (Visitors introduced.) Continuing discussion on the bill. Senator Briese.

BRIESE: Thank you, Mr. President. I rise to comment on AM1278, and I think AM1278 is good legislation. Can it be made better? Well, Senator Albrecht has some good ideas over here that we might be talking about after a bit. AM1278 adds some clarity and process to what's otherwise been a complaint-driven process. It really hasn't worked the best. Under our statutes, a person commits illegal gambling when he or she bets something of value upon the outcome of a future event which outcome is determined by an element of chance or upon the outcome of a game contest or decision. The Bank Shot court, I think we referred to earlier in the discussion, the Nebraska Supreme Court in the Bank Shot decision reaffirmed its prior interpretations of that language which held that gambling occurs in Nebraska when a bet is placed on an outcome that is determined predominantly by chance. And the court restated an earlier holding in that decision that predominant nature of the game, skill or chance, determines its classification. This bill in Section 2, paragraph 8, or the amendment, reaffirms the Nebraska Supreme Court's standard on what is permissible and what is not permissible in this realm as it describes skill games as those which produce an outcome predominantly caused by skill and not chance. So what this bill does

Floor Debate
April 15, 2019

is essentially reaffirms what the Nebraska Supreme Court has stated, as interpretation of existing law. The determination of what constitutes gambling hinges on whether it's predominantly skill or chance. In doing this, the bill lays out factors to be considered in this assessment. It will help make this more of an objective process with less subjectivity. And anytime you can lay out a process, provide some standards, give some objective factors, remove some subjectivity to the determination, I think everyone wins. It's a policy improvement. And again, are there ways we can improve on this bill, this amendment? Yes, I think there are. So we'll talk about those later, I'm assuming. And others, Senator Wayne, I appreciate his comments here on the shifting of the burden and have great respect for his insight in this but I don't know if I necessarily buy it. First of all, the bill doesn't talk about-- doesn't say the applicant has the burden of proving anything. It simply requires him or her to jump through some hoops to get this determination. And in the exercise of the state's police power, we require people to jump through the hoops all the time. If I want to hunt deer on my land, I have to fill out a permit, attest to some facts on the application, and do that. You have to apply for a gun permit in certain situations, and here in the realm of mechanical amusement devices, you're already burdened by the existing scheme. If you want to get a device for a mechanical amusement device, or a decal I should say, you have to fill out a form 54. And on that form 54, you have to certify to certain things and you have to certify that your machine is not an illegal device. You know, is that placing a burden on the applicant? You know, I think in a way it is, to a lesser degree, but it's a burden nonetheless. It places the burden on the applicant to make the determination of the legality of their machine and to certify to that. Under this amendment, the applicant simply provides the information requested, and the commissioner makes a determination. And remember, we're not talking about a criminal proceeding here. This is akin to an administrative proceeding. It's essentially a procedure to get a decal. It's not a determination of guilt or innocence. Appeals through the Administrative Procedure Act and there's a reason it appeals through the Administrative Procedure Act because it's an administrative proceeding. If you have a machine without a decal that's in operation and you're going to get prosecuted for doing that, the government still has the burden. They're going to have to prove it's your machine, you operate it, and it didn't have a decal. So I appreciate Senator Wayne's comments on that. But I do tend to disagree with some of what he's saying there.

FOLEY: One minute.

BRIESE: And again, I think this is good legislation. Can it be improved? Yes, there are ways to improve it, but I look forward to the discussion going forward. Thank you.

FOLEY: Thank you, Senator Briese. Senator Chambers.

Floor Debate
April 15, 2019

CHAMBERS: Thank you, Mr. President. Members of the Legislature, ordinarily if a question relative to the constitution and especially burdens of proof, whether somebody will be charged with a crime or not, I would get into that discussion. But there's been assault on a First Amendment right that I think should be of concern to everybody on this floor, but obviously it is not, so I'm going to take time to talk about it. There was a judge who made a comment about what speech is protected, what speech is not. Not everything that comes out of your mouth, which is called speech, is protected. There is a common misstatement of what a judge said, because it does not include everything the judge said. People will say you cannot cry "fire" in a crowded theater. Well, actually, you can. First of all, if there is a fire. Secondly, if you are giving a stage production, and somebody is to be shot and they say "ready, aim, fire", you can shout it. There is an intent that has been attached, with the intent to create disorder or panic. It sets up the parameters within which that word cannot be shouted in a crowded theater. But because the public does not think, the public latches on to slogans. They misperceive the importance of speech being protected. As I told you, there are senators here who want this so-called conservative speech protected. You see where "Repelicans" all over the country, and even your President is talking about withholding funds from universities that receive public money if any speakers are not allowed to speak because of their-- well, what he's talking about, "Repelicans", conservatives, and religious zealots. Creighton is a private university. Creighton can do whatever it chooses to do. Burdens that can justifiably be put on a university which receives public funds, meaning the taxpayers all contribute, can be subjected to regulation that private institutions are not subjected to. But private universities are not allowed to do just anything they want to do because they're private, as is manifested by the investigation of these for-profit universities as they're called, that were targeting veterans and cheating them out of their money. Just because you're private, you don't have the right under the law to cheat people. Even private universities don't have that right. Bob Kerrey was a popular person when he was the Governor, and he was subsequently elected to the U.S. Senate. Bob Kerrey is not a fool. Bob Kerrey would not have gone to deliver a speech at Creighton University, which is the Jesuit university. Jesuits are known as the soldiers of the Pope. I learned all those things about the Catholic Church, the Jesuits, when I spent my four years there. I didn't realize that graduating in four years was an achievement. It was easy for me. I didn't even attend classes and I didn't have professors--

FOLEY: One minute.

CHAMBERS: --that dropped me for not attending. Unless I checked into-- for a class and I never showed up. Then you would get an AF which is an absence failure, meaning you never showed up. But I did do a lot of reading in the library and among other things, I read what was called the Catholic encyclopedia and I don't know if my arms extended would embrace all of the books that comprise the Catholic encyclopedia. And I believe I read more from that than any Jesuit priest, any Jesuit brother, any nun or anybody else at that university. My time is up this time but I'm

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

Floor Debate
April 15, 2019

going to continue on this subject all morning and maybe this afternoon. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Moser.

MOSER: Thank you, Mr. President. Good morning, colleagues. I was wondering if Senator Lathrop would respond to some questions, please.

FOLEY: Senator Lathrop, will you yield, please?

LATHROP: I will sure try.

MOSER: Okay. So the problem in layman's terms was that machines were being used in various establishments across the state, and there was question as to whether they were a gambling device or not.

LATHROP: You're right.

MOSER: Okay. And so your bill-- and I call it your bill even though you've had a lot of help and input on it, but the bill we're considering goes just one step toward solving that problem. It's going to help identify which machines are chance and which are skill.

LATHROP: That's part of it. There's also an ease of enforcement. Like you get preapproval instead of having each machine seized--

MOSER: Oh, some efficiencies of scale, kind of.

LATHROP: Right.

MOSER: Do you feel that your bill enables gambling or expands gambling?

LATHROP: No, it would limit it. There's a whole class of things that are happening right now that are games of chance that this bill will eliminate.

MOSER: And if you wanted to allow these machines to be used and forgo the testing and just assume that they are gambling, that would be against the constitution?

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

Floor Debate
April 15, 2019

LATHROP: I think that probably would, to just declare everything that takes money and puts money out to be gambling would be going too far. Because they're games of skill, or they have some measure of skill or a sufficient measure of skill where the person at the monitor can affect the outcome.

MOSER: So, there's no way to tax them at a higher rate because we're suspecting that they're a gambling device because the constitution wouldn't allow us?

LATHROP: I don't know that we can't tax games of skill. So once we sort out which is a game of chance from a game of skill, if it's a game of skill, I don't know if we can tax them or not. But I-- maybe that's better asked of somebody over in Revenue. It's-- it's not-- it's outside the scope of this bill, however.

MOSER: Yeah. So, I guess there are a lot of questions and issues with gambling and what these devices are and where they fall. And this bill solves one problem out of a dozen, maybe.

LATHROP: Well, there's probably a lot of problems with some form of gambling that we could be regulating, on-line gambling, all kinds of different ways that people gamble right now. This just deals with these things that are sometimes referred to as gray machines. And I assume that means because they're in the gray area. And now we're going to try to make that just a little bit more black and white.

MOSER: Yeah, I'm getting questions from constituents both for gambling and against gambling. And they're trying to figure out if they support your bill based on whether they're for or against gambling. But really your bill is more of an administrative kind of bill.

LATHROP: It's narrow in that its scope is these machines that have a video monitor. And determining or providing for a process to determine at the front end instead of having each one of them seized and a test done on each machine. What we do is take a prototype of these machines, run it past the tax commissioner. We're giving the tax commissioner some criteria, and the tax commissioner can make a determination--

FOLEY: One minute.

LATHROP: --as to whether they are games of chance or games of skill.

MOSER: In your estimation is this going to limit some of these games and require some of these operators to send these machines back to the distributors?

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

Floor Debate
April 15, 2019

LATHROP: I expect so. Now, having said that, Senator Moser, I don't know that they can't-- these things are like computers. And I don't know that they can't just change the code, keep the monitor, change the code and go from a game of chance to a game of skill.

MOSER: Yeah. It sounds like a kind of a confusing landscape to try to describe. Thank you very much for your help. I appreciate it.

LATHROP: Happy to.

FOLEY: Thank you, Senators Lathrop and Moser. Senator Lathrop, you're next in the queue.

LATHROP: Thank you, Mr. President. And I want to respond to a couple of things. And first of all, I've had a conversation with Senator Albrecht. I'm happy to accept an amendment on Select File that deals with these things, even the games of skill that are done with video monitors cannot accept credit cards, and the other is to set an age limit on it. The third issue that Senator Albrecht and I have had conversations about is how many of these can be in any one establishment. I'm happy to talk to her but I can't agree to a specific number because I don't really know how many of these things people are putting where and what's a reasonable number. So I'll have that conversation with Senator Albrecht between General and Select. Having said that, I'd like to address a couple of things that Senator Wayne said. It is not self-incrimination to take one of these machines and say, is this gambling according to the statute or is this a game of skill. The cases that he's referring to-- and I got wind of this this morning-- is the Supreme Court case where they made people bring in illegal guns and get some registration. Well, as soon as you bring the illegal gun in and answer the questions, you're-- you can't answer the questions they ask you without committing or acknowledging that you're committing a crime. That's altogether different than this. This is simply taking a machine, no crime to have it on you because you're not gambling with it or using it to gamble, you take a prototype in, and you give it to the tax commissioner and they give you the seal of approval. Now, does that happen in state government? Yes, it does. So think about the state fair, the county fair, the amusement rides, the midway. So we have people that go to the midway and make sure that the games that are played on the midway aren't rigged. Right? So these things, there's stamps on. We inspect elevators to make sure they're in compliance with our rules and regulations. And then we stick that little sheet in the elevator that nobody reads indicating that the thing has been inspected. So this is just a process. No one's admitting they've committed a crime. They're simply making a determination as to which side of the law, whether it's a game of skill or a game of chance, and then they are given some indicia of that decision in the form of a decal that you stick on the machine, and you can operate it. And the person you sell it to, or lease it to, or share the revenue with, doesn't get in trouble. We do these things all the time. Cigarettes have stamps on them. Liquor has stamps on them. We regulate things all the time and put stamps on them or decals to indicate that this is

Floor Debate
April 15, 2019

approved by the tax commissioner, or some other branch of state government, and this process is no different. So with that, I would appreciate your support.

FOLEY: Thank you, Senator Lathrop. Senator Geist.

GEIST: Yes, thank you, Mr. President. And I-- my only concern with this bill-- actually, I don't like the credit card option on the bill. And the other is, I really think we need to have some kind of age limit. Pickle cards have age limit. Keno, lottery, all of that has an age limit. And I do stand as an opponent of gambling. But I do understand that some of these have been ruled as a game of skill. I do recognize our need to regulate. However, I think this could get a bit out of control and I understand that we can come back at some point and add an age limit and take away the ability to use a credit card. It's hard to understand that as you're using a credit card, it doesn't feel like real money. And for those that have addictions and things like that, being able to run up a bill on a credit card quickly is a problem and something that I see just as an underlying maybe weakness of the bill. I do appreciate what Senator Lathrop is trying to do, and take us further down the road of regulation. And I appreciate that. Those are just the two concerns I have that aren't yet a part of the bill. Thank you, Mr. President. I'll give you my time back.

FOLEY: Thank you, Senator Geist. Senator Wayne.

WAYNE: Thank you, Mr. President. I want to take a brief minute to talk about burdens of proof. I need people to understand this who are not in the legal field. You have probable cause. That's kind of one of the lowest burdens of proof where a cop pulls you over because they think you may have violated a traffic. They saw something and you might have swerved a little bit, they think, I see a traffic violation. Then you have the highest burden of proof, which is reasonable doubt, beyond reasonable doubt. That is a criminal statute. And everything in the state Constitution, U.S. Constitution, all criminal statutes have to meet the elements of reasonable doubt. Okay? Then you have preponderance, which is kind of in the middle. It's like, ahh, 51 percent, a little bit more, maybe we think something happened, maybe we didn't. Then we have what's called arbitrary and capricious. The reason why that's important because that is under the APA. That is arbitrary and capricious simply means as long as they follow the standards, although all the evidence is flawed, as long as they follow the standards and procedures outlined, they didn't act arbitrary and they didn't act capricious. So why do these definitions matter? Well, if somebody thought there was a gaming device today, they would go in and confiscate as Senator Lathrop said. Police aren't doing that. Local police are not doing that. They don't think it's really gambling. Maybe it is, maybe it isn't. What this does is it shifts the burden on the individual. There's nothing in this statute that says if I submit an independent third-party report that it will be used against me in a criminal proceeding. There's nothing in the statute. So I am self-incriminating by just going through the process. Now what makes it different, if this wasn't a

Floor Debate
April 15, 2019

criminal statute as Senator Briese thinks it's all civil, then there's no need on the first page to change the criminal code. There's a reason why they're changing the criminal code. Because in order to get to where they are, you have to give an affirmative defense. You have to give an affirmative defense, which means, yes, I committed the crime, but I had no knowledge. So the most you're probably familiar with an affirmative defense is, yes, I committed the murder, but I did it because I was insane or I was protecting a third party. You're admitting to the murder, but you're saying I'm escaped from the law because I'm either insane, or another example is, I'm defending myself or a third party. That's what most people are familiar with. They're changing the criminal code to create an affirmative defense because you are making an admission. You're admitting to the crime. And the only time the affirmative offense applies is if you don't know. Well, here's the problem. The case that I'm referencing isn't *State v. Mann*, it's actually *State v. Spire v. Strawberries*, 1991. There was a whole bunch of gambling cases back then because we changed some gambling laws. This act takes effect in 2020. Why this is important is because the rules and regs may not come out until 2021. There are your constituents right now, VFWs, who are using these, churches are using these, who underneath the statute will be committing a crime. They will be committing a crime because the regs won't come out in 2021, but according to the state-- the case that I just read to you, intent is already proven if they're currently using it. There's no grandfather clause in here. So all of our small community church organizations, all of our places who are using this as a way to keep revenue coming in, they're all committing crimes unbeknownst to themselves. And they're all going to be guilty because if one of their machines is found by somebody else to be a gaming device, they've already admitted it too, because they have it in their building. There's a fundamental problem with shifting the burden. And why is that important? Because they approve the third-party tester. Think about that. Our government is approving the third-party tester, and if you disagree and go out and hire somebody independently, you get a hearing under the APA. This is very important.

FOLEY: One minute.

WAYNE: But they can rule against you. You appeal to the court, it's arbitrary and capricious. Did they follow their standards? Did they follow their procedures? Of course. Overruled your-- I mean sustained, your case is gone. Even though you have an independent lab say, no, my expert says it's not gaming. They-- the state expert says it is gaming. That is a fundamental problem with the arbitrary and capricious theory under the APA and while we are trying to take a criminal statute and put it into civil proceedings, that's a huge no. This is flawed, this is flawed legislation. I am not going to filibuster this. People have asked me for time. I said I'm not going to need no more time because this is so cut and dry. This is completely cut and dry. We are shifting the burden to the citizen on a criminal code matter. Never before have I seen it this blatant. We cannot do this. You add an affirmative defense to make sure the retail owner is okay, because you know whatever you submit is an admission.

Floor Debate
April 15, 2019

FOLEY: That's time. Thanks, Senator Wayne. Senator Chambers, you're recognized, your third opportunity.

CHAMBERS: Thank you, Mr. President. Members of the Legislature, sometimes when a person dies, people will try to say the mere fact that that person died cleans him or her up from things done while alive. The "Bible" had said, if a man is filthy, let him be filthy still. Let's say that I am a radio talk-show host and I interview a bishop. And the bishop is opposed to the death penalty. And when I play back the interview, I edit the interview to give the impression that the bishop is in favor of the death penalty. I don't know many people who would say that that is ethical. It's not against the law, but it's hardly ethical. There are many things said which upset, alienate people, and in a democracy, that's what freedom of speech exists for, so that you can have a multitude, multiplicity of differing, clashing, hostile opinions. And as long as words are all that are used, there's no crime committed. You cannot deliberately incite violence or those types of activity in actions that in themselves are against the law. I'm not talking about that realm of speech. When you have an institution of higher learning, and the Republican Party arrogates to itself the power to dictate to that institution as was done in this instance, the "Repelican" party has not violated the law, and the "Repelican" party and its followers are known to be rude, disrespectful, dishonest, and liars as their President has done. I don't know whether Creighton asked Bob Kerrey not to give the talk, but from the way I saw the information, he did not want to be a distraction. So the "Repelican" party won. They dictated what would happen at Creighton. When Kerry spoke, there may have been left a period during which questions could be put. And during that period rude questions can be propounded. In a setting of that kind, you don't look for rudeness, but it can crop up. What is there that puts a restraint on rudeness? Upbringing. Breeding. Common decency. Appropriate behavior. At a gathering, the nature of which you knew and understood when you went there. But a speaker always knows, he or she can be ambushed, as often people try to do me when I talk to these little towns around the state. I know something about the attempt of people to silence individuals because of what has been attempted against me by members of the Legislature. There was some Catholic social or civil rights group, as they call themselves, from New York, who felt I ought to be censured for things I said on the floor about Catholics and the Catholic Church and the influence of the Catholic Church on our activities. I laughed. The Legislature was smart enough--

FOLEY: One minute.

CHAMBERS: --not to attempt to do that. And I think the World-Herald may have even had something to say about that. As the newspaper, they are supposed to be upholders of the right to free speech. But they are not reluctant to condemn and criticize things that I say. That's what the media are for. And when you're a black man in a white-run country, which they stole from nonwhite people, their media are-- media is a plural word, by the way --the media are of, by, and for white people. They're allowed to be, they're expected to be, and they live up to that

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

Floor Debate
April 15, 2019

expectation. And when you're as old as I am and have been involved in the things that I've been in so many years, you look for that. It's the regular fare that you can expect from the white media. But you all ought to be concerned when the Republican Party did what it did--

FOLEY: That's time, Senator.

CHAMBERS: You said time?

FOLEY: Yes, sir.

CHAMBERS: Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Groene.

GROENE: Thank you, President. I have some questions for Senator Lathrop.

FOLEY: Senator Lathrop, would you yield, please?

LATHROP: I'd be happy to.

GROENE: The business proprietor, the person who apparently has a contract with the person who has the gaming equipment doesn't put it in their business unless there's a profit. Do you have any idea what the payout is or the profit to the business is on these machines?

LATHROP: I do not. I think it probably depends on how much traffic they get, but I would assume it's some kind of a split. The guy shows up to maintain the machine, there's a certain amount of money, and it gets divvied up.

GROENE: So it's the business transaction.

LATHROP: Certainly. It certainly is a business transaction whether it's a split or it pays the lease to put it in the quick shop or the bar, I don't know.

GROENE: Second question. So you're in a club, Legion Club and they got pool tables in there or you're in a bar and they've got pool tables, shuffle tables and they've got darts and sometimes they have poker tournaments, and everybody enters has an entry fee. And then at the end of the

Floor Debate
April 15, 2019

tournament somebody wins money. That's how they see it in these clubs, they're playing poker. What's the difference between that and these machines?

LATHROP: Well, first of all I'm not sure the legality of having those kind of tournaments. That's not something I've ever evaluated myself. But the difference is, these machines, you can't alter the outcome with skill. So if I enter a dart tournament and everybody throws five bucks into the pool and the guy that wins gets the money, at least there's some skill involved.

GROENE: Well, if you've got a five-card stud machine and you draw when you have a full house in front of you, it takes some skill too now to do that.

LATHROP: That is-- that is addressed in here. That's-- that doesn't change the fact that ultimately over time the house is going to win. And, I look at it this way. If it is preprogrammed to have a certain number of wins and a certain number of losses, I think that's the easiest way to understand these machines. And you can't affect those percentages with how you perform at the video monitor than--

GROENE: So that would be a parameter. Is it actually a chance of skill or is it preprogrammed that you're programmed to lose 51 percent of the time?

LATHROP: Exactly.

GROENE: All right. Thank you.

FOLEY: Thank you, Senator Groene and Senator Lathrop. Senator Friesen.

FRIESEN: Thank you, Mr. President. Would Senator Lathrop yield to some questions?

FOLEY: Senator Lathrop, would you yield, please?

LATHROP: Yes.

FRIESEN: So in the past I remember, I think Senator Schumacher and Senator Larson had some bills kind of similar to this. Is this following a little bit that model of trying to regulate these machines better currently in establishments?

Floor Debate
April 15, 2019

LATHROP: It certainly-- I don't know what their legislation looked like so I can't comment or compare it to that. But I can tell you this is an attempt to define which are legal and which are not.

FRIESEN: Okay. And I think some of that, it is difficult because they can upgrade software and suddenly change those games into something that is illegal versus legal. And so, you know, back when I was looking at it-- so the fees that you're charging now would-- I looked at it a little bit as a way of protecting the keno revenue. There's only so much gambling money in those places. And so now with this fee that you're charging, would it be on the same playing field as keno players, the tax that's applied to keno? Does that help level that playing field a little bit?

LATHROP: No. So keno has a certain percentage of it that's plowed back into the community. My Ralston that I represent has Ralston keno. They have a certain amount of the revenue generated from that operation, which by the way we approved and it's in our constitution. A certain amount of that revenue goes back to our community. Thank God if you're Ralston, and probably La Vista and other places that have those keno parlors. This is just strictly between the guy who put it in there and the guy who's hosting the machine.

FRIESEN: So it's strictly a regulatory-- being able to monitor--

LATHROP: Yes. In fact the fees-- Senator Friesen, the fees that we have, we have attempted as best PRO can do, to establish what's it going to cost us to evaluate the machines and then figure out how many machines there are, and the fees reflect that expense. We're not-- Department of Revenue is not making any money on these.

FRIESEN: So going back to a little bit to Senator Wayne was talking about, so if a machine, if a bar owner turns his machine in to have it examined and he finds it's illegal, does that bar owner get punished?

LATHROP: Well, it's not going to be the bar owner, it's going to be the distributor because what we don't want to do is, do one machine at a time. You're going to take a prototype, let's call it the Friesen machine. The Friesen machine now I'm going to take it in to the Department of Revenue and Department of Revenue is going to determine whether it meets the criteria of a game of chance or a game of skill. Once the Friesen machine is approved, then every similar machine can get the decal without being approved individually one at a time.

FRIESEN: So if they miss a machine and don't get the sticker on it and they find it in my bar, am I guilty?

Floor Debate
April 15, 2019

LATHROP: You will have a problem if you don't have a decal on one of these machines after this becomes the law. Yes.

FRIESEN: So it would be the bar owner's responsibility to see to it that it has the sticker.

LATHROP: It's-- there's a relationship between the distributor and the bar owner. Right? If the distributor's machines turn out to be gambling devices and not games of skill, then it's incumbent upon the distributor to take them out of the bars.

FRIESEN: Who gets in more trouble, the bar owner or the distributor?

LATHROP: I'd have to get back to you on that one.

FRIESEN: Okay. All right. I'm still learning more about this. But I think it's-- these machines are out there. They've been declared anywhere from a game of chance to a game of skill. I don't play 'em, but it is an interesting-- I do think we need to monitor them closer because some of these are obviously gambling machines. So thank you, Mr. President.

SCHEER: Thank you, Senator Friesen and Senator Lathrop. Senator Bostelman, you're recognized.

BOSTELMAN: Thank you, Mr. Speaker. I wonder if Senator Briese would yield to a question or two.

SCHEER: Senator Briese, would you please yield?

BRIESE: Yes, I would.

BOSTELMAN: Senator Briese, as I have been listening this morning, the question comes up quite a bit here this morning about I think it's called-- is it affirmative defense in these areas. Could you explain that as your understanding within the bill what that is?

BRIESE: Well, Section 1 of the bill indicates that a retail establishment owner has an affirmative defense against a charge of operating an illegal gambling device, if they have an unexpired decal on that device. So essentially we're talking about criminal code here and under the criminal code, the state has the burden to prove by beyond reasonable doubt that they violated the provisions of that criminal statute. We have to remember, too, that the statute we're talking about here Section

Floor Debate
April 15, 2019

77, so on, it's not part of the criminal code. The only reference to the criminal code is the first-- the first Section 1 where it talks about this providing an affirmative defense under prosecution there. But anyway, the prosecution typically has the burden of-- does have the burden of proving beyond a reasonable doubt all elements necessary to determine guilt. And an affirmative defense is an opportunity for the defendant to say, no, that's not the case and here's why. And they would have the burden of proving that affirmative defense or establishing that affirmative defense.

BOSTELMAN: Okay. Could you answer me a question as to the term of skill. Skill means what?

BRIESE: Well, the amendment lays out several determining factors here, or factors that can be looked at to assess whether something is a game of skill. And those factors include, oh, the ability of a player to win-- the factors suggest that it's not a game of skill if the ability of a player to win is affected by the number of prior wins or losses. It's not a game of skill if you're able to set predetermine win-loss ratios. And so on and so forth. And so there's several factors laid out in there. And that goes back to the Bank Shot case, you know, the query there was whether it's predominantly a game of skill or predominantly a game of chance. And they just kind of looked at a few things and determined it was predominantly a game of skill, that particular game operated in one mode. This lays out a set of factors to be looked at and to be utilized in making that determination. Are these factors clear and easy to understand? Well, maybe not, but they are factors nonetheless. And it does provide some objective standards there.

BOSTELMAN: Okay. My next question will be, we're talking about specific games at this point in time. And these are, I guess, machines that you-- that maybe rotate, whatever, and you push a button or you push the screen. Are there other types of games that are out there right now that this would apply to or is this strictly for these games we've identified here? I tell you, are there other games of skill, if you will, or a chance that may or may not be played in the state by the passage of this?

BRIESE: Well, this amendment, as I understand it, applies only to those items that are cash devices. In other words, do they spit out cash or something akin to cash or something redeemable for cash, cash devices defined in the bill. Yes, it applies only to things that are not skill-based, or excuse me, only applies to things that are cash devices, I should say.

BOSTELMAN: So would this apply to, say, physical machines? What about the Internet?

BRIESE: No, no.

BOSTELMAN: You do not believe this would apply to the Internet?

Floor Debate
April 15, 2019

BRIESE: Correct.

BOSTELMAN: So, if there's a skill or gaming device or something, or something that, a game that I'm playing on line or at another place, you do not feel this would apply to that game or not?

BRIESE: I don't believe it does.

BOSTELMAN: Okay. Thank you, Senator Briese. Senator Wayne mentioned some questions a little bit ago. How much time do I have left, Mr. Speaker?

SCHEER: 35 seconds.

BOSTELMAN: Ahh, probably don't have enough time. Will have to catch it next time. Senator Wayne had a couple comments there that raised concerns to me is about those existing machines that are out there already and how this may apply to them especially if we already have a number of these across the state, and what is the owner's responsibilities. And if this is passed, do they automatically, in violation of the statute or not, or is there a way in which for them to be-- I won't say grandfathered in, but have those machines looked at. And is it a one-by-one machine, is it the type of machine? I have concerns about that.

SCHEER: Time, Senator.

BOSTELMAN: Thank you.

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

ALBRECHT: Thank you, Speaker Scheer. I rise to talk a little bit about what Senator Wayne had been discussing. If, in fact, one of the compromises that I had spoke with Senator Lathrop about, was an emergency clause. That as soon as-- if this should pass as soon as it went across the Governor's desk, I would expect that anyone that has any machine whether it is the skilled or game of chance, should be bringing their machines in to check them over and take care of business. That would put people on notice right away that we're going to get this done. That was not an option, that was not something that they would allow. They're going to give them-- and in this bill, AM1278, Senator Lathrop has in here that this act becomes operative on January 1st, 2020. So I would strongly suggest that any of those establishments that have these machines that are in question should take a look at their contract with their distributors and get things straight before January 1st of 2020. You know, I read an article, Paul Hammel, I believe is here in the

Floor Debate
April 15, 2019

Chamber with us today, dated March 18, 2018. Skilled video games thrive in Nebraska, but their legality is in doubt. Again, this is why I rise to talk about a limit of four machines. If a skilled game is legal in the state of Nebraska, the way we can help control those things is by having a limited number of machines located in any establishment. But more importantly, in this article it does talk about high school kids were playing these games and winning money and having a great time. I think that's a little bit too young to be pushing something like that. But I do want to really, you know, kind of dig down deep between now and Select to feel okay about this and to-- I think what's going on right now with trying to regulate the bad machines that are out there puts people on notice that it's time to get them out of your establishment, do the right thing, but we will back in Senator Briese's committee next year with a few other items that need to be addressed. So, with that, I'll yield my time back to the Speaker.

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

WAYNE: Thank you, colleagues, and this is my last time speaking on this issue. I think it's pretty cut and dry and I don't want to take this any farther to a crazy 33, like sometimes we do when talking. But there are some fundamental issues that this bill should just not go forward. And I-- make no mistake, I'm in favor of gambling. I just don't like the fact that I have to tell on myself before I do anything. It's a fundamental right. So if there was an immunity clause, I'm all for that. If there is a way to make sure according to the case that-- I'll read the case, Subsection 1 is the criminal code. This section is severable from the remaining invalid portions of the statute. Evidence that devices were seen in bars being played by patrons shows knowledge that the defendant tavern owners knew the machines with no purpose except gaming devices were used in gambling activities and was sufficient to prove the defendant violated Section 1, which is a Class II misdemeanor. The fact that they were being played, and it was determined by the state to have no other purpose but gambling, that means it's gaming. The fact that it was played, intent is already given because you let them play it. So we got a year gap that everybody's going to be violating the law and not know it and prosecutors can go after. But I don't think people understand what a game of chance is versus a game of skill. So let me tell you. If we-- part of the reason these are not blowing up everywhere and becoming so popular is because owners are unsure if the statute-- if what they do is criminal or not. This gives everybody a clear way to figure this out. I will give them that. I just want an immunity provision. I get an immunity provision and a lack of self-- and it can't be used against me or my clients in any criminal proceeding, I'm all for it. If we can add that, I have no problem. And the reason why I have no problem is because, then I get to add fantasy sports into my local places. That has been ruled multiple times that it is a game of skill. Like I said, many of these shops, and add that, that currently is not anywhere in the state of Nebraska. There are plenty of games of skill that I don't think this body knows that I will love to see in the state of Nebraska. And fantasy sports is one of them. Tyson Larson introduced bills on that at the time and now Senator Blood has introduced a bill sitting in committee that will provide a regulatory scheme for fantasy sports. Well, I'm here

Floor Debate
April 15, 2019

to tell you, Senator Blood, if this bill passes, we can just put machines up. We don't have to play it on our gadgets and our phones anymore, because that is a game of skill. Defined by the Supreme Court, different states multiple times, it is a game of skill. That's what we're talking about. All I'm asking for, Senator Lathrop, and anybody else on the committee who will work with me to add immunity clause, I'm all for it. And don't worry, I got to deal with the same slippery slope argument that I just made when it comes to him. So I can't wait to have that conversation. But the fact of the matter is, that is what we're talking about. Game of skills. And fantasy sport is a game of skill. So if you think you're unsure about what this does with gambling, one, it puts these local bar owners, churches, VFWs, over the next year we make them all criminals. There's no immunity to that. Two, it provides a clear pathway to all games of skill that are currently not being introduced by owners because it's gray. Because they don't want the sheriff knocking on their door, pulling their machines out, and be found a Class II misdemeanors. And it's per device. So they don't want all 50 machines, 20 machines, or three machines to be taken right now.

SCHEER: One minute.

WAYNE: So, they are looking to the industry to figure out games that have been figured out that they weren't games of device and they're putting them in. And we're offering no protection for these small nonprofit groups over the next year not to be convicted of criminal crime, of criminal element. That's all I'm asking for. So I'm voting no 'cause I haven't heard an agreement. I don't think there will be an agreement. I would ask my colleagues to vote no. And if you don't know what a game of skill is, I would ask you to look at Senator Blood's bill and read about fantasy sports because it is a game of skill. Thank you, Mr. President.

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

ERDMAN: Thank you, Mr. Speaker, and good morning. I've been sitting here for the better part of an hour, maybe longer, listening to the conversation. One of the questions that came to mind when Senator Friesen asked his question about who is liable, the person placing the game there or the bar owner or establishment owner, I didn't get an answer that I believe was satisfactory. But if these machines are connected to the Internet, and these are computers, my question is, even though it's been inspected and when they inspected it, it was fine, they can be reprogrammed or the software can be changed in an instant, and all of a sudden it becomes a game of chance rather than a game of skill, and it could be changed back. It looks to me like we're heading down a slippery slope here and trying to regulate something. It's like trying to catch the wind. I don't know how this is going to be regulated. These are very sophisticated machines that are placed in these establishments by those people that want to make money doing

Floor Debate
April 15, 2019

this. And I have a tough time understanding how we're going to regulate those machines that can be changed in an instant. Maybe Senator Lathrop would yield to a question.

SCHEER: Senator Lathrop, would you please yield?

LATHROP: Yes.

ERDMAN: Senator Lathrop, thank you. So you heard my comments as I opened here and so Senator Friesen had asked the question, who's liable, the establishment owner or the owner of the machines. And you told him I believe that you were going to get an answer to that question, is that correct?

LATHROP: Yeah, I'm looking at that. I know that the establishment owner, once this becomes effective, if you don't have a decal on your machine indicating that it has been approved by the tax commissioner, you're subject to a penalty.

ERDMAN: Okay. So the comments I made about these machines being a computer and can be reprogrammed after they've been checked or approved, is that something that we should be concerned about?

LATHROP: Well, it's a great question because a lot of them are Wi-Fi enabled, and it's basically a computer program. Once the specimen has been approved, so you take the Erdman machine in and it does something really fun and it requires skill, and it's now going to get the sticker, you have to provide an affidavit that you won't change the code. It's going to stay that way.

ERDMAN: Okay. What are the penalties? I didn't look that up. What are the penalties for someone who violates these regulations?

LATHROP: Any person placing in service or operating a device constituting a game of chance within the state shall be subject to a penalty of \$1,000 for each day of such operation.

ERDMAN: Okay. All right. So, if they made those changes to those machines, and then they were caught, then that's a pretty significant fine, I understand that. So we will-- let's say I have four machines in my establishment. Do they all four need to be inspected?

LATHROP: So your individual machines don't need to be. A prototype of them need to be approved. So as soon as Tony Fulton says the Erdman machine is fine, then you'll get a decal

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

Floor Debate
April 15, 2019

after you pay the fee for the decal. You'll get a decal for each one of the machines that are consistent with that approved device.

ERDMAN: Yeah, I understand. So in light of the fact that they're hooked up to Wi-Fi and they can be altered really doesn't give us a lot of guarantee that those machines that I have are the same one that was tested. Would that be a fair assumption?

LATHROP: Well, other than they're subject to seizure if they're not in compliance.

ERDMAN: I understand.

LATHROP: Or they became something else other than the approved device.

ERDMAN: Okay. All right. Thank you for answering those questions. I'm not sure I'm any more clear now than I was before I started but I appreciate your answers. Thank you.

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

BOSTELMAN: I wonder if Senator Wayne is on the floor.

SCHEER: Senator Wayne, are you available?

BOSTELMAN: I have a question on-- my question relies to what Senator Wayne just spoke about a couple of issues on the case of this bill.

SCHEER: He's coming in right now, Senator Bostelman. Senator Wayne, would you please yield?

WAYNE: Yes.

BOSTELMAN: Thank you, Senator Wayne, for coming back in and yielding to a question, I appreciate that. You just spoke-- a couple things, one-- two questions to start with. One, we were talking before about people who already have these machines in their establishments and how this could be a problem with that. And I guess you say they have to have an immunity that would have to come about to clarify this a little bit? I mean, if they have it and it's an illegal machine, who's going to tell them it's an illegal machine and how do they get it out of there?

Floor Debate
April 15, 2019

WAYNE: Well, as Senator Lathrop said, they're not going to test every machine. So your partner down the street or in another county may have the exact same machine and exact same thing that submits to testing. And so, unlike any other criminal thing, now you have committed a crime because they've already found one to be deemed illegal.

BOSTELMAN: So that would be that the tax commissioner would send out a notice to everyone saying, hey, you need to remove your machines or else?

WAYNE: Well, that's just it. It's not in the bill so I don't know. So let's say somebody in Omaha gets a machine that deemed illegal and somebody in Kearney continues to operate that machine, well, it's illegal. Now you committed a crime and based off of the court ruling, the fact that people were playing it and it's a gaming device, intent doesn't need to be proven.

BOSTELMAN: Okay. Now I want to move to the next question. You just mentioned it on the mike and it drew a question to me. My understanding looking at the bill and the amendment, we're talking about mechanical device. So how does a mechanical device-- and I'm not a fantasy sports gaming person, so how does this apply to that, or other skilled games?

WAYNE: Because all we have to do is create a mechanical device, and actually MGM and other people have-- just like these machines where you could walk in and place your fantasy sports.

BOSTELMAN: So, I guess with that, we're going to come back to a question I had talked to Senator Briese about was skill. On those machines we're talking about right now, how is this skill?

WAYNE: Because the Supreme Courts have deemed just like Bank Shot in fantasy sports, they have deemed those game of skills, not game of chances. I can go through all the court cases but what they're basically saying, a list of factors means that you can manipulate and control and determine somewhat the outcome. You have the skill to do that versus a truly random roll of the dice.

BOSTELMAN: So this would allow other games of skill as well, other than fantasy sports betting. If I come up with my own skill game, this would allow those to come in as well, is that right?

WAYNE: If it meets the Supreme Court definition of game of skill, yes.

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

Floor Debate
April 15, 2019

BOSTELMAN: Okay. Thank you, Senator Wayne, I appreciate you coming back in and yielding to questions. I yield the rest of my time back to the Speaker.

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

ASSISTANT CLERK: Mr. President, Senator Linehan would move to suspend Rule 3, Section 14 to permit cancellation of the public hearing scheduled by the Revenue Committee for April 18, 2019.

SCHEER: Thank you, Mr. Clerk. The vote is to withdraw the committee meeting hearing notice. This will take 30 positive votes. All those in favor please vote aye; all those opposed vote nay. Colleagues, we are voting in order for the Revenue Committee to withdraw a hearing notice that was scheduled for this Thursday. Your positive vote would be appreciated. Have all voted that wish to? Please record.

ASSISTANT CLERK: 33 ayes, 0 nays on the motion.

SCHEER: The hearing notice is withdrawn. Returning to the queue, Senator Wayne. Oh, I'm sorry, Senator Hilgers. Is Senator-- Senator Hilgers, you're next. And Senator Wayne, your light is on but you have spoke three times.

HILGERS: Thank you, Mr. President. Good morning, colleagues. I've listened to this debate this morning and I'm trying to get my arms around some of the arguments that have been articulated and some of the counter arguments. I was wondering if Senator Wayne would yield to a question and then afterwards I'll ask Senator Lathrop if he would respond to a question. Senator Wayne.

SCHEER: Senator Wayne, would you please yield?

WAYNE: Yes.

HILGERS: Senator Wayne, so I understand at least one of your arguments is an argument that this bill would-- and as I understand it, it would through the-- through take-- by going to have the preapproval process, that it would-- could result in some self-incrimination for an individual. Is that a fair summary of your argument?

WAYNE: Yes, there's the general self-incrimination and then there's this gap of when they come out with regs and prove incrimination.

Floor Debate
April 15, 2019

HILGERS: So on the first piece, so the general-- so can you unpack that a little bit for me just so I fully understand what your argument is?

WAYNE: So the argument is simply that I am submitting to the government whether I have a gaming device that meets the definition of skilled labor or meets the definition of gaming generally which is a Class II misdemeanor. And when I submit that to the department, if it is deemed a gambling device, then I've committed a Class II misdemeanor and I just don't want my submission to be used against me in a court of law.

HILGERS: So if I-- okay, I hear you as far as it goes. You would be guilty of a misdemeanor, I think that's the key point in my mind, if you were then to go-- would you be guilty of a misdemeanor as I understand the law or as you understand it, if after being denied you would then go use the machine, or you'd be guilty of a misdemeanor if they just denied it and you didn't do anything further?

WAYNE: Well, I think the law is pretty vague on how that would happen, but one thing is clear that for this gap period, if I'm using this device, and based off of the court decision that people are using the device, then I know it's a gambling device. So during this gap year I'm already stuck. But afterwards I think there's an argument of whether I had intent to use it. At least that would be my argument on a criminal defense side.

HILGERS: And the gap is between now and whenever--

WAYNE: Whenever the regs are done and whenever that machine is tested.

HILGERS: Okay. Thank you, Senator Wayne. Would Senator Lathrop yield to a question?

SCHEER: Senator Lathrop, would you please yield?

LATHROP: Yes.

HILGERS: Thank you, Senator Lathrop. How you would-- I think I heard a piece of your argument how you would respond to that, but how would you respond to that argument?

LATHROP: I'd respond this way. That 28-1107, paragraph 1, or Section 1, requires proof of knowledge that the device shall be used in advancement of unlawful gambling activity. That doesn't happen when you take it in. Just because you have it in your possession, you're not guilty

Floor Debate
April 15, 2019

of anything. When you take it in, you're not guilty of anything, you're not incriminating yourself. They're just going to make a predetermination for you. And it's not being used in a gambling activity. It's--

HILGERS: That piece, that certainly strikes me as right, if you just bring it in. Seems to me that would be-- I don't read the language as saying if you were to bring it in-- just by bringing it in, if they say no, that therefore you would be liable. But what about this gap in your concept that Senator Wayne just articulated?

LATHROP: I don't have-- I don't want people to get caught up. So if there is sometime between the time the regulations are finished, so that's why we have an operative date, and I know I had this conversation with Senator Albrecht that wanted an E-clause. I'm like, we got to get people a chance to adjust. Right? So, I want to afford everybody an opportunity to not be caught with a machine that they're using right now, and they've been using it for two years or whatever it is, and we don't have our regulations done, or the law hasn't taken effect. These guys aren't enforcing it now because it's impractical to go out and grab these machines and test them all. So, I don't think that that's actually a legitimate concern.

SCHEER: One minute.

HILGERS: Thank you, Senator Lathrop. I appreciate that and thank you Senator Wayne. I think Senator Wayne has raised some good points. I think there are a few answers to those points that I think I find compelling. I'm still listening to this debate this morning. I don't know if we're going to get a vote this morning or after lunch or not, but I appreciate the conversation on this issue so far this morning. Thank you, Mr. President.

SCHEER: Thank you, Senator Hilgers, Senator Wayne, and Senator Lathrop. (Visitors introduced.) Mr. Clerk for announcements.

ASSISTANT CLERK: Thank you, Mr. President. Your Committee on Business and Labor reports to General File, LB360 and LB418, both having committee amendments. The Appropriations Committee will be having an Exec Session today at noon in Room 1003. A series of name adds: Senator Williams to LB605; Senator Erdman to LB693.

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

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

Floor Debate
April 15, 2019

SCHEER: Colleagues, you've heard the motion. All those in favor please say aye. Any opposed say nay. We are in recess.

RECESS

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

WILLIAMS: Mr. Clerk, please record.

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

WILLIAMS: Thank you, Mr. Clerk. Are there any items for the record?

ASSISTANT CLERK: Just one, Mr. President. LR84 introduced by Senator Matt Hansen. That will be read and laid over. That's all I have at this time, Mr. President.

WILLIAMS: Thank you. We'll return to the agenda to get us started this afternoon. Senator Lathrop, would you like to take a few minutes to update us on the workings with LB538?

LATHROP: I'm not sure I have an update, but I'll refresh everyone's recollection. This is a bill that's going to address these video machines that are showing up across the state in different establishments and make a distinction between devices that are games of chance and those that involve games of skill. It will also improve the way we enforce this gambling law with respect to these devices in that it will require preapproval instead of having the state patrol go out and seize every machine that's out there and independently test each one.

WILLIAMS: Thank you, Senator Lathrop. And Senator Briese from the General Affairs Committee, would you like to refresh us on AM900?

BRIESE: Thank you, Mr. President. AM900 simply adds more clarity and process to the determination of whether something is a game of skill or a game of chance. Outlines a process by which the tax commissioner and Department of Revenue can follow in making that assessment. And beyond that, there are some other amendments that make some further changes.

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

Floor Debate
April 15, 2019

WILLIAMS: Thank you, Senator Briese. Returning to debate. Senator Clements, you're recognized.

CLEMENTS: Thank you, Mr. President. I do think it's important to regulate these machines. I think it's pretty clear from some of the information I've received that there's gambling going on, not just games of skill. But I do have some questions if Senator Lathrop would yield to a question.

WILLIAMS: Senator Lathrop, would you yield?

LATHROP: I'd be happy to.

CLEMENTS: Thank you, Senator. I, first, don't know what a Class II misdemeanor is. Could you give us the penalties for a Class II misdemeanor?

LATHROP: I can tell you what a Class I is. A Class I is like up to a year. A Class II is less than that. Typically it might have a small amount of jail time as a potential, but generally they're disposed of with some kind of a fine or probation.

CLEMENTS: All right. Then on page 2 of AM1278, line 27 talks about a credit card being used in a machine and I really don't-- would prefer not to have a credit card. Would you be willing to eliminate the use of a credit card?

LATHROP: Well, yes. That's a conversation I had with Senator Albrecht and we will on Select File say that credit cards can't be used for these devices and will set an age limit on the ones that remain legal after this legislation passes.

CLEMENTS: And right after credit card, it says, or substitute. Does the substitute really meaning a token-- a token coin?

LATHROP: I suppose a substitute could be a plastic card or it could be a token of some kind. Probably-- I'm guessing it's probably a token, more likely to be.

CLEMENTS: Yeah, I would rather restrict that to a token and rather than some kind of a substitute credit card, a cash card. Then I notice on page 3 of AM1278, the top line talks about mechanical amusement device what it includes. And then the selection below and starting on line

Floor Debate
April 15, 2019

19 it deletes mechanical amusement device. Is there a difference between the definition from the top or did it just move that section? I really haven't compared all the words.

LATHROP: Neither have I. They look pretty similar to me but I don't know the answer to that question.

CLEMENTS: All right. Well, I think maybe going to Select we should just make sure that the definition hasn't changed.

LATHROP: Sure.

CLEMENTS: Then go to page 4, line 13, it says, which produce an outcome predominantly caused by skill and not chance. Is predominantly defined or is that-- does the Supreme Court use that term?

LATHROP: The Supreme Court used that term in the Bank Shot case and it's a-- the existing standard right now is predominantly one or the other. Yes.

CLEMENTS: All right, so predominantly just means whatever they, I guess, how they determine it. It seems like, it's a little bit vague but if the Supreme Court used that, I think that's what we'll go with. The-- let's see what else I had. Page 5, line 19, an application fee of \$500 and that per machine, or per location?

LATHROP: That is the application so when you submit the prototype and you say here's my machine, tax department, I have 45 of these things in a truck--

WILLIAMS: One minute.

LATHROP: --and you look at this one and approve it, that's the \$500 fee.

CLEMENTS: Oh, OK. So if the machine they test is good, then \$500 does it for all of the machines.

LATHROP: Except that each machine gets a decal and each decal costs the proprietor. There's a fee for putting the decal on there.

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

Floor Debate
April 15, 2019

CLEMENTS: Okay, well, thank you, Senator Lathrop. I believe that's all I have at this point. Thank you, Mr. Chair.

WILLIAMS: Thank you, Senator Clements and Senator Lathrop. (Visitors introduced.) Seeing no one in the queue, Senator Lathrop, you are invited to close on AM1278.

LATHROP: Thank you, Mr. President, and colleagues. I'll do this. I will take advantage of the opportunity to close. I want to just cover a little bit of ground that we heard from-- concerns that were expressed on the floor. I'm happy to continue the dialogue with Senator Albrecht and any other person who has an interest in improving this bill. I find myself on this bill in the middle of two extremes. There are those who want more gambling and have concerns that this thing is restricting activities that they'd like to participate in. Then I have some folks on the other side that would like to see this bill go further. As you know when you draft your own bills, you try to find the middle ground, something that you can get passed. Sometimes this work is done incrementally. I'm sure there's a lot of things dealing with gambling. I don't know much about fantasy sports, but there's a lot of things that could be done when it comes to the subject of gambling. I've just carved out these things that are called gray machines, the video machines. I think we're tightening things as we have a responsibility to do inasmuch as our constitution says this body can't expand gambling without a vote of the people. With that, I would appreciate your support of AM1278, and you have my assurance that if you have concerns, my door is open and I'm happy to work with you. Thank you.

WILLIAMS: Thank you, Senator Lathrop. The question is, shall the amendment to the committee amendment to LB538 be adopted? All those in favor vote aye; opposed vote nay. Have all voted? Record, Mr. Clerk.

ASSISTANT CLERK: 35 ayes, 2 nays on the adoption of the amendment.

WILLIAMS: The amendment is adopted. Seeing no one in the queue, Senator Briese, you are recognized to close on AM900.

BRIESE: Thank you, Mr. President. Appreciate the great discussion we had here earlier. A lot of good points were brought up by individuals in the body and it was a good discussion and I thank Senator Lathrop for his willingness to work on this and make some changes, and Senator Albrecht's input on this, and suggestions are going forward, Senator Wayne's and everyone else. And from the discussion it sounds like we have an agreement before Select on some of these issues that Senator Albrecht brought up, and dealing with credit cards, the age limit, and maybe some of those concerns that Senator Wayne spoke of should be talked about also, but that's something to discuss going forward. I think it's good legislation. It adds some clarity and process

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

Floor Debate
April 15, 2019

to the analysis and the way I see it, this in no way relaxes gambling in the state. It tightens up the definition of gambling in my view and so, it's a good bill. And especially any time you can lay out a process, provide some standards, give the party some guidelines, remove some subjectivity, I think everyone can win. I think it's a good policy improvement. I'd ask for your support on this. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Briese. The question is, shall the committee amendments to LB538 be adopted? All those in favor vote aye; those opposed vote nay. Have all voted? Record, Mr. Clerk.

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

WILLIAMS: The amendment is adopted. Now discussion on the advancement. Seeing no one in the queue, Senator Lathrop, you're recognized to close on the advancement of LB538.

LATHROP: Thank you, Mr. President. I'll just use this opportunity to thank Senator Briese, the members of the General Affairs Committee, Senator Albrecht, and the Governor's Policy Research Office for their input on the bill to this point in time and I look forward to addressing additional concerns before Select File. Thank you.

WILLIAMS: Thank you, Senator Lathrop. The question is the advancement of LB538 to E&R Initial. All those in favor vote aye; those opposed vote nay. Have all voted? Record, Mr. Clerk.

ASSISTANT CLERK: 34 ayes, 0 nays on the advancement of the bill.

WILLIAMS: The bill advances. Items, Mr. Clerk.

ASSISTANT CLERK: Thank you, Mr. President. Committee report by the Judiciary Committee regarding certain Gubernatorial appointments. Additionally, the Judiciary Committee reports LB308, LB392, LB643, LB179, LB387, LB433, LB434, LB478, LB532, LB595 to General File, some having committee amendments. That's all I have at this time, Mr. President.

WILLIAMS: Thank you, Mr. Clerk. Returning to General File.

ASSISTANT CLERK: Thank you, Mr. President. LB323 introduced by Senator Crawford. (Read title.) The bill was read for the first time on January 16th of this year and referred to the Health

Floor Debate
April 15, 2019

and Human Services Committee. That committee placed the bill on General File with committee amendments.

WILLIAMS: Senator Crawford, you're recognized to open on LB323.

CRAWFORD: Thank you, Mr. President. Good afternoon, colleagues. I rise to present LB323 and this is my priority bill for the session. I'd like to thank Senator Linehan and Senator Blood for co-sponsoring the bill and I'd like to also thank Senator Linehan for working with me on LR448, an interim study that was the basis for this bill. LR448 was an interim study to review Nebraska's Medicaid Insurance for Workers with Disabilities Program. I'll refer to this program from here on out as Medicaid buy-in for short, because it's a program that allows individuals with disabilities who are working and earning income that exceeds the traditional Medicaid limit to purchase or buy-in to Medicaid insurance coverage. For most of this population, continued Medicaid coverage is essential because it covers services and supports not covered by other private health plans. The Medicaid buy-in program allows individuals with disabilities to work and earn an income while maintaining critical coverage and contributing to cover the cost of Medicaid. LB323 was advanced unanimously out of the Health and Human Services Committee with one absent. Nebraska's Medicaid buy-in program has not been updated since it was first adopted by Nebraska in 1997, and federal changes since then provide states with more flexibility to update their program-- excuse me, provide more flexibility to states that update their programs. Basically, this bill changes the federal reference for our state for this program in two ways. First, it changes the federal authority and eligibility standards from the 1997 Balanced Budget Act to the Ticket to Work and Improvement Incentives Act of 1999. This is the Roman numeral 15 language in Section 8 of the bill, page 3, line 11. This gives the state more flexibility in our ability to provide coverage for working individuals with disabilities and streamlines the eligibility process while retaining current income eligibility standards. The current two-part eligibility termination process under the old language is notoriously convoluted and requires specialized DHHS staff to administer. Advocates and staff currently spend days tracking down the required information. The second Roman numeral 16 on the same line, adds a medically improved eligibility group, also authorized under the Ticket to Work Act. This group covers people with disabilities who are responding to medication, treatment, or support services, and thus may lose their Social Security disability determination due to medical improvement. Currently, if an individual is deemed medically improved by Social Security, they're no longer eligible to receive Medicaid. While these individuals are maintaining an improved quality of life, losing access to the medications or supports that help them improve in the first place can cause their condition to deteriorate and to return to coverage under Medicaid as medically needy, likely at a much higher expense. Our neighbor Kansas has a program similar to ours, would be structured under LB323. On average, only about 1 percent of Kansas total enrollment falls under the medically improved category. This is a change that could make a huge difference for a very small number of people while potentially creating a cost savings for the state. Finally, LB323

Floor Debate
April 15, 2019

shifts the premium threshold-- that's how much people pay in to the program --from the current 2 percent to 10 percent of income up to 7.5 percent of income as required by Ticket to Work standards. After many meetings and collaboration between my office, the Department of Health and Human Services, and advocates, we believe we have crafted the most logical and least expensive proposal to update the Medicaid buy-in program that streamlines program eligibility and reduces administrative burden and complexity. Nebraska is one of only a handful of states that has not updated our eligibility standards from the Balanced Budget Act to the Ticket to Work Act eligibility standards. As of 2018, 74 individuals were enrolled in a Medicaid buy-in program with a five-year average participation rate of about 80. It's difficult to estimate how many individuals are currently on Medicaid and currently not-- and not currently working but who would take a job or would work more hours at a higher pay if the eligibility criteria were updated. We do know anecdotally from our work with advocacy organizations that many individuals report working less hours than they would like, refusing promotions and pay rises, or not working at all even though they are capable and would prefer employment for fear of losing their Medicaid coverage. Research from other states indicates that updated Medicaid buy-in programs for workers with disabilities have a positive impact on state budgets and reduce Medicaid costs for participants. When Kansas implemented their program under the Ticket to Work eligibility standards, Medicaid expenditures for that population dropped 41 percent. Let me repeat that. When Kansas adopted their new program under the Ticket to Work eligibility standards, Medicaid expenditures for that population dropped 41 percent. And participants' contributions to state revenues increased. Medicaid buy-in participants in Washington had higher earnings, paid more in taxes, and relied 80 percent less on food stamps. When folks are earning an income and taking pride in their work, they are happier, healthier, and need less assistance. In an effort to eliminate the fiscal note, we have worked with the department, advocates, and fiscal analysts to develop an amendment, committee amendment, AM678, which I expect to eliminate the fiscal impact. I'll discuss this amendment further following Senator Howard's introduction, and I'll be asking you to vote green on both AM678 and LB323. Thank you.

WILLIAMS: Thank you, Senator Crawford. (Visitors introduced.) As the Clerk stated, there are amendments from the Health and Human Services Committee. Senator Howard, as Chair of the committee, you're recognized to open on the committee amendments.

HOWARD: Thank you, Mr. President. Good afternoon, colleagues. AM678 replaces the green copy and becomes the bill. As noted, the Medicaid buy-in program is authorized under two different federal laws and states can choose which way to administer the program. Like the original bill, AM678 changes the federal law authorization from the Balanced Budget Act of 1997 to the Ticket to Work and Work Incentives Improvement Act of 1999. The Medicaid buy-in program is easier to administer under the Ticket to Work law, and to that end, AM678 changes the original bill by striking the language that would require the department to disregard unearned income and strikes the reference to the trial work period. Similarly, the language regarding

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

Floor Debate
April 15, 2019

supplemental security income is struck. Neither provision is necessary under the Ticket to Work law. AM678 does not change the eligibility levels. To be eligible for the Medicaid buy-in program the family income for a person with disabilities must still be below 250 percent of the federal poverty guidelines. AM678 does not remove the assets limit for eligibility as originally proposed under LB323 green copy. Under AM678, current asset limits would remain intact. AM678 also maintains the amended cap on premiums of 7.5 percent from the green copy of the bill. The remainder of AM678 mirrors the green copy. This amendment was passed with a majority of committee members voting in favor with one absent, and with that, Mr. President, I would urge the body to adopt this amendment. Thank you.

WILLIAMS: Thank you, Senator Howard. Senator Crawford, you're recognized.

CRAWFORD: Thank you, Mr. President. Senator Howard has done an excellent job summarizing the amendment to the bill, so I won't summarize that again. I will just say that when we were looking at the fiscal note and held meetings with the fiscal analyst and the department to determine what needed to be done to reduce the fiscal note, there were two basic drivers of cost in the bill, and those are the two drivers that give us the fiscal note that we have right now. And one, because there is a concern that those drivers would bring more people in, and so this amendment takes out those drivers. One was reducing the limit on resources or assets and that was one of the key drivers of cost. And so this takes out that change and again we expect it to eliminate the fiscal impact. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Crawford. Senator Hilgers, you're recognized.

HILGERS: Thank you, Mr. President. Good afternoon, colleagues. I won't take up my entire time. There was one thing I want to ask Senator Crawford a question here in a second if she could help me clarify. As I was listening to the conversation about LB323 and particular the income cap as it's currently 10 percent and I understand the green copy and AM678 would reduce that to 7.5 percent. What I heard in the discussion was that that 7.5 is what is required by federal law and in the federal laws that I heard as part of the discussion were both from the 90s. And so, I guess, I'm going to ask Senator Crawford. I'm going to give her a preview of my question, but I'm curious as to whether or not an instance of, I'm just missing the federal law that was more recently enacted that we're complying with, or if this is something that was passed in the late 90s that we're just now catching up on. So would Senator Crawford yield to a question?

WILLIAMS: Senator Crawford, would you yield?

CRAWFORD: Yes.

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

Floor Debate
April 15, 2019

HILGERS: So that-- Senator Crawford I just stated the question, I'll restate it. If I heard you correctly, the 7.5 is in order to comply with federal law, is that right?

CRAWFORD: That is correct.

HILGERS: And is that federal law one of the two that were mentioned by you and Senator Howard from the late 90s or is some other law--

CRAWFORD: It is the 1999 Ticket to Work Improvement Incentives Act. So we have not updated to 1999. We're still in the 1997 language.

HILGERS: Okay. Thank you. And that, the 1999 Ticket to Work Act that required a 7.5 percent cap, is that right?

CRAWFORD: That is correct.

HILGERS: Okay. Thank you, Senator Crawford. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Hilgers and Senator Crawford. Seeing no one wanting to speak, Senator Howard, you're recognized to close on the committee amendments. Senator Howard waives closing. Members, the question is, shall the committee amendments to LB323 be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

ASSISTANT CLERK: 37 ayes, 0 nays on the adoption of the committee amendments.

WILLIAMS: The amendment is adopted. Returning to discussion. Seeing no one wanting to speak, Senator Crawford, you're recognized to close on LB323.

CRAWFORD: Thank you, Mr. President. Colleagues, although Nebraska's Medicaid buy-in program for workers with disabilities is meant to encourage employment, current convoluted and outdated eligibility standards discourage individuals with disabilities from contributing to our economy and advancing their careers. The update to our Medicaid buy-in program in LB323 will provide individuals with disabilities access to necessary medical coverage to enable them to increase their employment and foster financial independence. I ask you to vote green on LB323. Thank you, Mr. President.

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

Floor Debate
April 15, 2019

WILLIAMS: Thank you, Senator Crawford. The question is the advancement of LB323 to E&R Initial. All those in favor vote aye; those opposed vote nay. Have all voted? Record, Mr. Clerk.

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

WILLIAMS: The bill advances. Mr. Clerk for items.

ASSISTANT CLERK: Mr. President, LB657 introduced by Senator Wayne. (Read title.) The bill was read for the first time on January 23rd of this year and referred to the Agriculture Committee. That committee placed the bill on General File with committee amendments.

WILLIAMS: Thank you, Mr. Clerk. Senator Wayne, you're recognized to open on LB657.

WAYNE: Thank you, Mr. President. Welcome everyone, back from lunch. I look forward to a great, healthy discussion, but I want to talk about a little bit about before I get into this bill why I even introduced this bill. I introduced this bill because when I was elected to Urban Affairs Chair, I wanted to find a way to create jobs inside of municipalities. And I understand that corn, soybean, and agriculture products are the backbone of the state, but many of the jobs around processing, manufacturing are the backbone of many municipalities. So I was trying to come up three years ago with a agricultural product that we could lead the country in, as far as growing and manufacturing right here in the state of Nebraska. And I came across this product, or this agriculture. And I went all the way back to the Nebraska when we first became a state, but even longer than that, hemp production in the United States was from the beginning of when we founded this country. Jamestown, Virginia, hemp is recorded being in production as early as 1619, over 400 years ago. A century and a half later, George Washington, Thomas Jefferson, grew hemp on their land, and John Adams wrote about the crops and its many uses. And, in fact, during the first 13 colonies, you were required to grow hemp because of its value and its nature. Hemp can be used for fabrics, yarns, rope, paper, insulation materials, drywall, animal bedding, industrial oils, body care products, and many more. According to the 2015 congressional study, the global market for these products are over 25,000 that are made from hemp. Over 47 nations currently allow for the production of hemp and 17 more have already introduced bills and are moving through their congressional or Congress or government as we speak today. This is a growing market. Other than legalizing the production of hemp at the federal level in 2018, the farm bill mandated a couple things. And this is important. Some people are going to say Nebraska is not ready. Some people are going to say that we shouldn't take a leap in the front in the agriculture, but I've never known Nebraska to do that. When it comes to agriculture, we have always taken the lead. So I want you to be clear on what happens if we don't pass this bill. The feds will come up with regs by 2020 and they will mandate it to us. The law currently says at federal level if the state does not come up with their own plan, we will give you a plan. And what

Floor Debate
April 15, 2019

we're trying to do by working with the Department of Agriculture is to create a Nebraska plan for Nebraska farmers. The 2018 farm bill said this. That a state must have a system in place for licensure or registration of hemp growers. That there must be a means for tracking where hemp is being grown. That there has to be annual testing with the product being grown with compliant levels of THC, and it's not total THC and we'll have a conversation about that, no doubt, but it's dealt to THC which is even smaller amount. And there must be a method for destroying the crop if it doesn't meet those requirements. That's the federal law. They moved hemp away from controlled substance. It's now legal at the federal level. What they are saying is, states, you come up with your own plan or we're going to give you a plan because this market is growing and it's going to be worth over \$10 billion by 2025. LB657 and AM88 address those issues. This has always been a working draft and next round there will be an amendment where we got some more language from the Department of Ag that I didn't want to put on General File and muddy up the conversation, but there's some technical things they want changed that we've agreed to. But I also wanted to hear this body and see if they wanted any changes before we have another amendment. So we try to have one amendment that will accomplish everything on the second round. We worked with the state patrol. We worked with Department of Ag. And we also worked with many senators in here to address their concerns. Although this is not my priority bill, I do want to thank Senator Brandt for prioritizing this bill to allow farmers to have an alternative crop when we look at the markets of corn and soybean. Again, hemp production is coming one way or another and rather being out of the business for two to three years, it is important that we get in now and allow the University of Nebraska to do research, to allow cities like Imperial to put up a production facility. To allow Sidney, Gering and other people who are looking to revitalize some areas that have open warehouses to be a part of this new industry. Last year this market was 820 million and it is growing exponentially. I'm asking you guys-- this body --I guess guys is a wrong term, this body. I'll admit when I'm wrong, senator, --to think real hard and long about this and don't get caught up in the slippery slope and the arguments that this is about another species of the plant. I'm not even going to mention it because it confuses the issue. You cannot get high off of this plant. And, in fact, we have the best seed in the country here in Nebraska and here's why. In 1940 during World War II, the government allowed states to grow hemp and what they found out was Nebraska was the best at growing hemp. We had more hemp per acre than any other state in the country. And then after World War II, our federal government went back and said this is all a part of the same plant, we're going to outlaw it. But what our state along with Missouri, Kansas, and Iowa got together and went to the federal government and said, we still see value in this plant. And that's why it's not a part of our Noxious Weed Program. We asked the federal government for reprieve from that because there's value in this plant. And over the last 40 to 50 years of natural selection, we literally have the best seeds. And that's what we're talking about. We're talking about for the next two years, Nebraska being the lead in the seed market because once we get behind, we're behind. There is no catching up. We can be at the beginning point of this industry and we can thrive as a state and fundamentally change how we do business, many of our communities, and more importantly, just give an alternative for our farmers. I look

Floor Debate
April 15, 2019

forward to this discussion. As you can tell, I'm passionate about this, and I hope we have an intelligent, fruitful discussion on this bill, not on plants that aren't involved in this bill, not on species that aren't involved in this bill, because this is coming one way or another. And we can either be left behind or we can lead. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Wayne. As the Clerk stated, there are amendments from the Agriculture Committee. Senator Halloran, as Chair of the committee, you're recognized to open on your amendments.

HOLLORAN: Thank you, Mr. President, colleagues, Nebraskans. The committee amendments, AM988, is a white copy amendment which strikes the original provisions and becomes the bill. I would direct you to the committee statement which provides a detailed section by section overview of the amendment for more detail. I will briefly walk through the elements of the bill. Sections 1 through 19 are designated the Hemp Farming Act. The purposes of the act is to provide for hemp cultivation and commercialization as an agriculture commodity are stated in Section 2. Section 4 assigns a duty to the Department of Agriculture to administer a program to license and regulate growers, processors, and handlers of hemp consistent with elements of a state plan under the 2018 farm bill. Sections 5 through 8 directs the department to administer a licensure program to grow, process, or handle hemp, providing for information to be provided with licensure application in annual renewal. Grounds and procedures for denying a license and establish licensed application and site registration fees. Section 9 creates a cash fund to receive license fees. Section 10 identifies obligations of licensees to participate in the program to facilitate inspection and testing and disposition of product not in compliance with the act. Sections 11 through 13 set forth enforcement procedures for unintentional and intentional violations of the act and procedures for persons aggrieved by an order of the director. Section 14 requires licensees to conduct preharvest testing for THC content, utilizing approved labs with results certified to the department. The department is also authorized to conduct sampling and testing and promulgate rules governing sampling and testing. Section 16 directs the department to submit a state plan for USDA approval and specially authorizes elements of the plan to be consistent with requirements under the 2018 farm bill. Sections 16 through 19 creates the Nebraska Hemp Commission and assigns duties to the commission for the promotion and development of hemp modeled after existing small program check-off programs housed within the Department of Agriculture. One of the issues the Ag Committee amendments addressed is that the department would not have the ability to staff and implement the hemp act and obtain approval of a state plan under the provisions of the 2018 farm bill in time for the 2019 growing season. The committee amendment, therefore, inserts a revision of the 2-5701 to provide for an expansion of what is currently a very limited authorization to grow hemp for research purposes. This provision implements provisions of the 2014 farm bill, which provides for state pilot programs of hemp production and marketing research. We anticipate that the provisions of the act, once fully implemented, would meet the criteria for approval of a state plan and that the act

Floor Debate
April 15, 2019

would be in place for the 2020 growing season and beyond. The committee amendment provides for the separation of the regulatory parts of the bill from the promotional aspects. The bill as introduced would have provided that the Hemp Commission and the Department of Agriculture share the same cash fund. The committee amendment creates a separate fund and funding stream for the Hemp Commission to carry out the promotional purposes of the bill. Some of the changes included in the committee amendment more fully addresses aspects of state plans that are specified as minimal elements under the farm bill and are not included in the original bill. These include for minor violations of the act, the department and the licensee enter a corrective actions plan, are being back into compliance, and other noncriminal penalties. The farm bill also requires that persons convicted of felony drug offenses within the previous ten years are not eligible for licensure. Finally, the committee amendment is less prescriptive than the bill as introduced in what constitutes the state plan for purposes of the farm bill. The underlying bill would have directed that the act constituted the state plan and directed that it be submitted within 30 days of enactment. We are anticipating that the USDA will initiate rule making this summer and hopefully complete the process this fall. The act would provide the department with sufficient authority to tailor the programs as necessary to be consistent with the USDA regs when completed. I want to thank Senator Wayne, who is clearly passionate about this bill, for taking the lead on this issue, and his willingness to work with the Department of Agriculture and the Attorney General to craft amendments that address many of the agency's concern and implementational questions. I also want to wish-- I also wish to thank Senator Brandt for choosing this as his priority bill. LB657 provides a framework for moving forward for farmers and entrepreneurs to commercially develop hemp in Nebraska. I look forward to the discussion. I move the adoption of AM998.

WILLIAMS: Thank you, Senator Halloran. (Visitors introduced.) Returning to debate. Senator Brandt, you're recognized.

BRANDT: Thank you, Mr. President. I would like to thank Senator Wayne for bringing this important bill and the Agriculture Committee for unanimously advancing this bill. During testimony there were 14 proponents, no opponents, and one testifying in the neutral capacity. Here we are on the cusp of another spring planting season, one where the fourth largest ag economy in America, Nebraska, is poised to invest millions in the production of corn, soybeans, sorghum, and a wide variety of other crops. It is an exciting moment. The beginning of the journey from planting to harvest. As we go forward with hope and hard work, let us look back at an ancient crop, hemp. For most of our country's history, hemp was an important, widely-grown crop. In the 1940s, Nebraska was the largest producer of hemp in the United States. The wild and heirloom hemp found across the state today is the descendant and remnant of what was this prominent Nebraska industry. The passage of the 2018 farm bill has opened the door for hemp production across the entire United States and the state of Nebraska, facilitating the growth, cultivation, and processing of hemp in a legal manner in the United States. LB657 seeks to create

Floor Debate
April 15, 2019

the Nebraska Hemp Act which implements a hemp industry and hemp farming program in the state of Nebraska. Hemp is defined in this legislation as cannabis sativa, a non-THC variety. The global hemp market is estimated to be 10.6 billion by the year 2025. Kansas has already legalized the growth and sales of industrial hemp. Iowa and Missouri passed legislation to grow industrial hemp in 2018. Wyoming passed their legislation this year. In 2017, Montana had only 542 acres of hemp in production. Today they have over 22,000 acres in production. We are lagging behind our neighboring states who are our competitors in this emerging market. LB657, with the adoption of AM988, will temporarily expand participation in the hemp research pilot program authorized under Section 2-5701 to enable wider participation for the 2019 growing season using regulations laid out in the 2014 federal farm bill. It is anticipated that the hemp program authorized by the bill would provide the structure needed to prepare and implement a state plan to conform to the 2018 farm bill hemp provisions for the 2020 growing season and beyond. LB657 and AM988 creates a process for farmers and cultivars to test their crop for THC content to ensure it complies with the .3 percent THC content level of industrial hemp legalized under the 2018 federal farm bill. Let me be clear. There are naysayers that believe hemp is a drug. That would be like saying that we should ban corn and sorghum because we make 190 proof alcohol out of it and people can drink alcohol. Or we should ban potatoes because you can make vodka out of potatoes. Or we should not raise wheat because it contains gluten. Hemp is a new chapter in Nebraska agriculture's already long and successful playbook. It is drought resistant and it can serve as a rotational cash crop that fits in nicely with our existing crop mixes. I would ask you to vote yes on AM988--

WILLIAMS: One minute.

BRANDT: --and LB657 and give Nebraskans the opportunity to grow and process industrial hemp. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Brandt. Senator Lowe, you're recognized.

LOWE: Thank you, Mr. President. We're creating something new in Nebraska that hasn't been around for a long time and we're using it as an excuse to do it. Sounds like other states, they've done the same thing for this crop and then another crop because we need saved in the agriculture realm of our state. Corn prices are down. Soybean prices are down. So let's try another crop that's not proven. It's only been around truly now for just a couple of years that we've brought this crop back. To say that this is hemp, back when I was in high school and middle school, junior high back then, this was not called hemp. We called it by another name. South Dakota last week, the governor vetoed this bill, or a very similar bill to this saying, South Dakota must stand as an example for the rest of the country, not simply go along with others. Our focus must be on leading for South Dakota's next generation. Our state is not ready for industrial hemp. And I

Floor Debate
April 15, 2019

agree. There's no harm in waiting for another year. There is no harm. Then she continues, foremost among other defects of this bill are the challenges it creates with law enforcement. Their HB1191, which was the bill number, complicates law enforcement searches and provides a ready-made defense for those breaking our drug laws. This poorly drafted bill changes the definition of marijuana with little regard for the implications elsewhere in our code. It would create uncertainty for prosecution under our ingestion statute because the source of THC is placed in doubt when industrial hemp products that contain small amounts of THC, such as cannabidiol or CBD, are legalized. As governor, I will not leave it to our courts to interpret how this bill impacts our prohibition on an active ingredient of marijuana. And I do not believe the Legislature intended to complicate enforcement of our ingestion statute this way. The drug dogs will not be able to tell the difference between hemp and marijuana as it's being transported across our state. They can't tell the difference. If you're taking a load of hemp across the state to a manufacturing place, and a state patrolman stops you and holds it for testing, it may take a week or a month for that to happen. Can you afford to do that with your corn crops, with your soybeans, with your potatoes, with your other crops that Nebraska grows?

WILLIAMS: One minute.

LOWE: Thank you, Mr. President. I caution us as we head down this path. Agriculture is very important to this state. To say we're going to live or die by this one crop that we have not grown for a long time, I don't believe is true. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Lowe. Senator Walz, you're recognized.

WALZ: Thank you, Mr. President, and thank you, Senator Wayne, for bringing this bill. I stand in strong support of LB657. For most of U.S. history, hemp was a widely grown crop. By the end of the Civil War it made its way to Nebraska. In fact, the USDA reported the first hemp crop was raised in Fremont, Nebraska, in 1887. Senator Lowe, I have to disagree with you. I think our state is ready for industrial hemp. Last summer while campaigning with Senator Krist, we heard from young and old, from people in rural areas and urban areas, that Nebraskans are supporting legalizing industrial hemp as an agricultural crop. Hemp can be grown as fiber, seed, or other dual purpose crop. Fibers are used in fabrics, textiles, composites, construction, and something I didn't realize, auto parts. Hurds are used in animal bedding and material inputs. And hemp seed in oils are used in a variety of foods, lotions, and soap. Hemp is also being used for an important medicinal and therapeutic products. The ability to grow hemp in Nebraska will allow us many opportunities to benefit from new revenue streams and grow jobs in rural communities. You may have heard this slogan before, and I believe that this is a way for us to grow Nebraska. Industrial hemp will give our farmers an opportunity to diversify their business with a crop that grows easily in Nebraska. In fact, hemp thrives in a variety of soils and adds important nutrients back

Floor Debate
April 15, 2019

into the soil. Again from what we've heard, and we heard it loud and clear last summer traveling through many communities that Nebraskans want to do this, especially now during a time of financial stress for our farmers. We need to pass this bill to improve Nebraska's economic outlook and provide opportunity for so many. Please support Nebraska. Please support LB657. And with that, I will yield any remaining time I have to Senator Wayne. Thank you.

WILLIAMS: Thank you, Senator Walz. Senator Wayne, you're yielded 2:30.

WAYNE: Thank you, Mr. President, and hopefully I won't have to use all that. But to the South Dakota issue that was read by Senator Lowe, I just want to correct a couple of things. One, there was a search issue that South Dakota farmers did not like. It allowed law enforcement to go on to their property without any notice. We provided reasonable notice and the reason we provided reasonable notice is because every hemp crop is going to be GPS located. So if there is ever a question when a state patrol is driving down a highway whether this is hemp, or the other product, or the other plant, one, you can tell the difference by how it grows. And second, they could easily contact Department of Ag or they might even have a relationship already available to make sure that that plant is already GPS'd. Second thing as it relates to transport. I think there is a fundamental difference, colleagues, of having a semi carrying bales of hemp versus a car carrying bags of the other item. If you can't figure out the physical difference in that, there's a bigger problem we have today. But as it relates to the hemp and how it's transported, underneath federal law, it says that it has to be grown either through a licensed program, which is what we added in this amendment, or through a state approved. And since no state has been approved yet, all are going underneath the licensee program.

WILLIAMS: One minute.

WAYNE: So when you transfer-- thank you, Mr. President. When you transport, there's documentation you have to carry that is generated by the industry. So you're not going to be driving a semi with bales of hemp without having documentation of that product just like 98 percent, 99 percent of our current truck drivers have a shipping manifest. This is not difficult for police and anybody else to overcome. And, in fact, state patrol was neutral. And in multiple meetings with state patrol and local law enforcement, they are treating this as a commodity. Let me repeat. They are treating this as a commodity. Those aren't the issues that's been raised by state patrol. Those haven't been the issues raised by our Governor. These are being issues that were raised in South Dakota. We crafted our bill differently and we did so, and this amendment is direct result of another bill, LB457, Senator Lathrop's bill--

WILLIAMS: Time, Senator.

Floor Debate
April 15, 2019

WAYNE: Thank you.

WILLIAMS: Thank you, Senator Wayne. Senator Slama, you're recognized.

SLAMA: Thank you, Mr. President. I rise today in support of LB657 and AM988 and would like to thank Senator Wayne, Senator Brandt, the Department of Agriculture, and all of the farmers for coming around the table and putting together a bill which allows our farmers to diversify their offerings. Senator Lowe is correct. Our Nebraska farmers will not live or die on the passage of this bill, but it provides them another option to diversify their crops. And all you have to do is look at commodity prices for corn and soybeans right now to understand why that's important. Again, this is a proactive bill. Hemp is now legal on the federal level according to the 2018 farm bill. And I'm willing to have a discussion off the mike on the difference between industrial hemp and the other plants and options that have been bounced around on the mike. This is not a partisan bill. LB657 advanced out of Agriculture Committee 8-0, had no opposition testimony, and had over a dozen supporters at this hearing. Again, this is not a partisan issue, and represents a way for our farmers to diversify their crop offerings. So thank you again, Senator Wayne, for bringing this bill and for your extensive work to ensure that we've put forth the best hemp bill that we can put forth. So if Senator Wayne would like any more of my time-- okay, he waives, so. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Slama. Senator Hilgers, you're recognized.

HILGERS: Thank you, Mr. President. Good afternoon, colleagues. I appreciate Senator Wayne bringing this bill and his, as always, big picture, thoughtful approach to growing the state and helping our economy here. Appreciate Senator Brandt prioritizing it to allow us to have this conversation. I do have a number of questions as I was reading through the bill. A few of which I actually spoke with Senator Wayne off the mike, but I'd like to a few things on the record and have what I hope is a good conversation about what this bill does and how it interrelates with federal law and how actually it was being implemented. So with that, would Senator Wayne yield to a question or two?

WILLIAMS: Senator Wayne, will you yield?

WAYNE: Yes.

HILGERS: Thank you, Senator Wayne. Again, I appreciate you bringing this. A couple things. Could you help orient us on what the federal government did with the recent farm bill act of 2018?

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

Floor Debate
April 15, 2019

WAYNE: Yes. So, in 2014 when hemp started first being growing across the state, in the 2014 farm bill, Senator Mitch McConnell actually said that we need to take hemp to the next level because Kentucky has been growing it for years. So they removed it from the Controlled Substances Act and then they also said, we are going to authorize a hemp growing program and they laid out four elements that each state has to come up with when they create their hemp program.

HILGERS: And this was in 2018?

WAYNE: Yes, 2018.

HILGERS: And so I think I heard you say, maybe once or twice, that if the state doesn't act, then the federal government will act? Is that right?

WAYNE: Yes, how the bill reads is that the state is required to submit a plan, and if no plan is submitted, then whatever the federal regs become by default the state plan.

HILGERS: And those regs will come on-line around 2020, is that right?

WAYNE: We believe 2020.

HILGERS: 2020, so, let's say, and I think I heard you say, but correct me again if I didn't hear this correctly that, is it true that no state currently has implemented their own plan, or is that not true?

WAYNE: Well, it's both and I hate to say that, but in 2014-- 2014 farm bill allowed research programs. So you have-- we have our own research program and we passed a bill. We only have one acre of hemp being grown in the state of Nebraska, whereas Kentucky underneath their research program has over ten-, twenty-thousand acres being grown. So the issue is not whether will it happen, is yes it will happen, but how far are we going to be behind in this market.

HILGERS: So currently-- so if the state were not to do anything with LB657, then the one-acre or with that pilot program, we could continue with that pilot program, but until the regulations came on-line, that's all we could do? Is that right?

WAYNE: My initial bill was to start the program now, like Kentucky. They're just operating because the feds aren't coming in and arresting people for-- not getting high, so they're just

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

Floor Debate
April 15, 2019

operating. But the Department of Ag was a little leery of that and I agree with them, so this amendment creates the licensure program underneath-- similar to Kentucky but not as liberal as Kentucky as far as anybody can have it, but it creates regulations around a licensure program for this gap period. And the reason it's so critical of the gap period is because we already have Italy, Portuguese, and Spain who are trying to import seeds into the United States to be the seed producer. And what I've heard from multiple ag-- I can't think of the name, agronomists or something they're called and I apologize for saying their name wrong, we have the best seed right here and we need to start cultivating Nebraska seed as quick as we can.

HILGERS: So Kentucky didn't do-- they didn't have a plan that they submitted. They just-- they don't have a licensing regime, they just--

WAYNE: Actually they had an old licensing program in 2014. They took their current plan and just sent it the day that it passed and said, here goes our new plan. The federal government came back and said, hey, because in the statute it says-- or in the federal statute it says once you submit a plan, the USDA has to respond within 60 days. And they said, wait a minute, we're not ready yet, so give us a little more time to figure out our internal process, but keep operating the way you've been operating.

WILLIAMS: One minute.

HILGERS: Thank you, Mr. President. So if I'm going to-- tell me if this is a fair summary of what the farm bill did and it may be slightly incomplete, but tell me if it's fair. One, it took hemp as defined in LB657 and the accompanying amendment out of the listed controlled substances, and two, it said by 2020-- or, well, maybe it didn't say a specific year, but the federal government is going to create regulations that will cover the cultivation and production and sale of hemp. Is that fair?

WAYNE: That is a fair statement if the state doesn't come up with their own because the federal government recognized Kentucky, Tennessee, Montana, had really good programs that worked for them, and they didn't want to force it down, all the way down. They're saying, if you don't come up with your own, we'll have a default program for you, but come up with your own.

HILGERS: Okay. I think I'm out of time now, but I'll continue the conversation in a minute. Thanks, Senator Wayne.

WILLIAMS: Thank you, Senator Hilgers and Senator Wayne. Senator Blood, you're recognized.

Floor Debate
April 15, 2019

BLOOD: Thank you, Mr. President. Fellow senators, friends all, I stand in enthusiastic support of both the amendment and Senator Wayne's bill. I am never surprised anymore when people bring misinformation to the floor from gambling to hemp to whatever the next topic is going to be. I personally don't care what's going on in other states because I know what's going on in Nebraska. And what's going on in Nebraska is we have farms, many of them that have been flooded out this year, by the way, that are looking for ways to diversify. And to say that we need to wait is silliness because the due diligence has been done that shows that it's time to move forward. The bill has been written in a way that I think is very thoughtful and appropriate for Nebraska. With that, I would ask that Senator Lowe please yield to a question.

WILLIAMS: Senator Lowe, would you yield?

LOWE: Yes, I would.

BLOOD: How are you today, Senator Lowe?

LOWE: I am feeling off today.

BLOOD: I'm sorry to hear you are feeling off. That is an interesting way to put it, so I'll be gentle. So do you remember the conversation that we had in reference to electricity and people wanting to put Costco chicken buildings on their property? Do you remember that conversation?

LOWE: I don't remember that conversation specifically.

BLOOD: I think we talked about pullets. I explained to you what a pullet was, do you remember that? What a baby chicken was called.

LOWE: Yes.

BLOOD: OK. It was that conversation. And one of the things we discussed, and let me know if this sounds accurate to you, is that young farmers and family farms they're trying to keep their kids on the farm were looking for ways to diversify and that it was a positive thing to allow these chicken farmers to put up these buildings so they had another way to generate income. Would you say that that was your demeanor during that conversation?

LOWE: Yes.

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

Floor Debate
April 15, 2019

BLOOD: OK. So can you tell me why one way to generate income that obviously people were also against, is better than these other way when bills have been proven to be positive in one way or another?

LOWE: Growing chickens right now is legal in the state of Nebraska.

BLOOD: Well, basically hemp is too. There's just some things that we need to tweak to make it so.

LOWE: So it's not legal.

BLOOD: I'm not one of the fancy attorneys, so I'm going to let them answer that question because I don't think I'd answer it in a way that would be accurate enough, but the question I would ask you though, sir, is do you plan to filibuster this bill?

LOWE: I plan to have extended debate on this bill.

BLOOD: Can I ask why instead of doing an extended debate, to me it sounds like filibustering, but you're not just going around trying to flip people into a no vote. Why not take that energy to go person to person to change their votes since you have all this information you'd like to share?

LOWE: I'm not sure why I'm not doing that.

BLOOD: I'd like to see that. I appreciate extended debate, but I think that we end up being broken records on so many of these issues. We have a lot of priority bills to get through, a lot of important topics. I know you have your really important bill that I support in reference to-- on tax exemption for our veterans. So I just ask that you consider what the circumstances are of what you're doing. I don't fault you for doing it. And I'm sorry that you're not feeling well, Senator Lowe. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Blood and Senator Lowe. Senator Erdman, you're recognized.

ERDMAN: Thank you, Mr. President. Good afternoon. Senator Brandt, I listened to your comments about producing alcohol and the comments about potatoes and I'll give you one thing, you're creative. That was pretty good. So we're going to save the family farm with hemp. All right. So Senator Wayne was making comments about what the governor of South Dakota had said and the reason that she was opposed to their marijuana legislation. Excuse me, hemp. One

Floor Debate
April 15, 2019

of the things she said, I have concern that this bill supports the national effort to legalize marijuana for recreational use. I do not doubt the motives of this bill's legislative champions. However, an overwhelming number of contacts that I've received in favor of this bill come from the pro-marijuana activities people. There is no question in my mind that normalizing hemp, like legalizing medical marijuana, is part of a larger strategy to undermine enforcement of the drug laws and make legalized marijuana inevitable. That is the bottom line. And you can say what you want about hemp, and you can say what you want about marijuana and legalizing hemp. Let me share with you a couple of things that I discovered as a farmer. We have tried on several occasions to try specialty crops that we thought was going to help our area become successful and save the family farm. We tried chicory. We tried artichokes. We've tried about everything there is to try to save the family farm, to make more money. I see the information that was presented by Senator Wayne and it talked about how much money can be made on an acre of hemp. I don't see anyplace in that information what the hemp seed cost. And Senator Wayne alluded to the fact that we have some of the best seed in the world, and I have no idea whether that seed is applicable to the small amount of THC that it has to have. I don't know. But you plant a field of hemp and it's tested as it grows or however many times they test it, and if they discover that the field is too high in THCs, then they have to destroy the field. So if you have a complete testing of the field, I would understand that to be something that's pretty safe, but if you randomly sample a 60-acre field, 80-acre field, Senator Dorn, and you do three samples in each location and those were fine, you have no idea whether the rest of the field is that way or not. So the question that has to be answered is, once you've raised hemp on your farm, does it become a noxious weed? And anybody who has ever had marijuana growing wild in their field and tried to combine that corn with hemp there, you will understand what it is when it wraps around your snapping rolls and you'll wish you'd never seen that weed. You don't combine through this weed like you do some others. So once you plant hemp, is it a weed that you have to fight with going forward if you raise another crop? And the other question you have to ask is, which comes first? The processing plant or the acres? Well, I have a little experience with some of that--

WILLIAMS: One minute.

ERDMAN: Thank you, sir. --is we started a dry edible bean co-op. We did not buy the processing plant until we had the acres secured, because there was no way we could get an investment of \$1.5 million to buy a processing plant unless we had the product to go through the plant. And so, I think we have the cart before the horse. I think we need to figure out who is going to process this, where are they going to process it, and how are they going to process it, who are they going to sell it to, and what do we do with it once we have grown it. So just to pass LB657 and say, okay, this problem is now solved, hemp is going to be part of the salvation of our farms is not a true statement. There are numerous things that have to come before you start planting hemp, and I've not heard any of those discussed here today. Thank you.

Floor Debate
April 15, 2019

WILLIAMS: Thank you, Senator Erdman. Senator Friesen, you're recognized.

FRIESEN: Thank you, Mr. President. I do stand in support of hemp farming, but I do have some questions that I would like to ask Senator Wayne in a little bit. But I do want to reiterate a little bit, I think what Senator Erdman was saying, and I hope everybody doesn't get too optimistic on saving the family farm by growing hemp. It seems that we in agriculture are very capable of overproducing anything that you ask us to produce and we will. It's just a matter of time, but again, I do think it's a crop that now that the federal government has changed their regulations, I think it's going to have a use somewhere and it's going to cause us a lot of problems but I think we can work through it. Senator Wayne, would you yield to a question.

WILLIAMS: Senator Wayne, would you yield?

WAYNE: Yes.

FRIESEN: So you talk about the licensing process and the locations of where it's grown and where it's handled and where it's processed, but if I, for instance, decide to grow 40 acres of hemp and suddenly there's no market and I have to hold it over in storage for a year, do I need to have a license that second year because I'm holding that crop over?

WAYNE: No, well, I think you can reapply for your license, but I think it's-- that's going to be part of the regs that will be handed down in a year or so. But right now what I think is you would not need additional license. You might have to renew your license, but you wouldn't need an additional one because you would be holding that already this year.

FRIESEN: So if I had a current license and I didn't plan to grow it that second year, I was just storing leftover crop, no large fees or costs associated with that?

WAYNE: No.

FRIESEN: Okay. Do I have to have a location where that hemp is stored?

WAYNE: Yes.

FRIESEN: A GPS location?

WAYNE: Yes.

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

Floor Debate
April 15, 2019

FRIESEN: And that site licensed?

WAYNE: Yes.

FRIESEN: I noticed that any appeals automatically have to come to Lancaster County, is that--

WAYNE: Yes. We were trying to-- well, that's only after you do an internal appeal with the Department of Ag. And then it would come to Lancaster and that's because of the complications of growing hemp and when you test. So if you are at .4, .04, which you still can't get high from, but you need to destroy it, you can appeal that because-- and this is why we didn't go with the certified seed --because there are some seeds that go back down because THC turns into CBN through degradation or something.

FRIESEN: After it's harvested or-- ?

WAYNE: No, before. As the plant gets older, there's molecules that change it a little bit, but if you're on that threshold like half above, you might appeal it. If you're not-- like if you're point-- just this year Kentucky had to destroy over 500,000 because they bought certified seed, they thought it was good to go and it tested high. Got to get rid of it.

FRIESEN: So right now the appeals process you go to the Department of Ag and somewhere's there would be a process and if you didn't reach an agreement there, you could take it on to the courts in Lancaster County?

WAYNE: Correct.

FRIESEN: Okay. So who pays for testing whenever-- if a sheriff's office wants to come out and test my field, who pays for that testing?

WAYNE: The farmer.

FRIESEN: OK.

WAYNE: Well, not the sheriff-- Department of Ag. If you have some issues and the sheriffs are called, well, you'll still end up paying for that too.

FRIESEN: Do you know roughly what a test cost and who is capable of testing it?

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

Floor Debate
April 15, 2019

WAYNE: Yes. The University of Nebraska can test it right now for \$25. There are some private testers who want to test but can't test because they would be handling an illegal product for \$50.

FRIESEN: So there is test capable, and they will be available more readily once we get this process done.

WAYNE: Yes. Yes.

FRIESEN: Is there any federal crop insurance involved in hemp raising?

WAYNE: That is the issue right now on the federal level, and--

WILLIAMS: One minute.

WAYNE: --and I think there was a bill introduced this year to allow that. I don't know where the status of it. I will get back to you on that.

FRIESEN: Okay. Thank you, Senator Wayne. And I will continue to listen and see once where we go with this. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Friesen and Senator Wayne. Senator Murman, you're recognized.

MURMAN: Thank you, Senator Williams. I stand in support of LB657 and AM988 and I thank Senator Wayne for bringing the bill and Senator Brandt for prioritizing this bill. This last summer when I was campaigning across my district I heard many agricultural producers say that they were struggling with low prices and, of course, high property taxes. Many of them were very interested in the talks happening at the federal level, and the farm bill about industrial hemp. By giving producers the option to grow hemp, we are opening the opportunities for new commercial markets and growth in our state. When you read through this bill, you see that it does have many stipulations, including needing to be licensed to cultivate hemp. Producers must submit an application that includes an assortment of information including where they actually will be growing the hemp. It's important to stress that this bill is aligning our state law with the federal law for handling industrial hemp. I want to point out something more than just the usual benefit by-products made from hemp. There's a growing manufacturer in our state that is producing machinery, implements, and attachments specifically to handle these hemp plants. So not only will this help our producers, but it's going to help manufacturers. This bill gives agricultural producers, manufacturers, and our markets a chance to develop and grow. I'd like to

Floor Debate
April 15, 2019

say that I don't think it's going to be a panacea, but we have a chance to get in probably not on the bottom floor, but at least near the bottom floor and any problems that this bill that hasn't covered, I think can be overcome as we go along. Let's give those producers and manufacturers across the state the chance to grow in their businesses while expanding our markets. I'll yield the remainder of my time to Senator Wayne if he'd like it. Thank you.

WILLIAMS: Thank you, Senator Murman. Senator Wayne, you're yielded 2:40.

WAYNE: Thank you, and I love the efficiency that we're doing here. First, Senator Erdman, thank you for your concerns. I really do appreciate it, but unlike those other crops you mentioned, there is a history already behind there dating back 400 years that there's not only a proven market but that there is a processors who are willing to process. And why I say that is because since 2014, Kentucky hasn't been able to grow enough to feed the market. See, what people don't understand is-- and let me be clear here. Right now you can ship this in from Canada. So Canada has millions of acres of hemp that they harvest and then send down here on trains, planes, and automobiles so that our people can produce some-- manufacture it today. In fact, south of Plattsmouth, BastCore, in Senator Clements' district. He just put his hands up. He knows about it. He used to buy most of his hemp from Canada because it's already coming here in the market. We're just trying to open up our farmers to participate. There is nothing against regulations that say you can buy hemp, federally or otherwise. So they've been buying hemp for years from Canada, so there is a market. And as it relates to, if you plant it one year and it grows the next year, well, this urban kid grew up many moons on a farm. Small town, Iowa. And sometimes we would plant corn, next year we would go to soybeans. And every once in a while we would do a cover crop of radish, and every time we rotated crops, some of them things still kept growing--

WILLIAMS: One minute.

WAYNE: --and you had to go out and pull them. Well, we did. Now they walk the beans a little differently and ride on carts, but anyway, my point is that there's always some plants that come around the next year. So that's always going to happen. The fact of the matter is, is we are talking about a vision for Nebraska. I've never said this is going to save the family farm. I simply say we are offering alternative crop. Are we going to continue to move Nebraska forward in a way that allows our farmers and our municipalities to participate in a growing market, or do we want to sit behind? Do we want to stand back another two years and watch? We can't afford that. We can't afford to get in and create the seed market for research purposes these first couple of years. It's important that we start developing the best strands for hemp using Nebraska hemp. It's very important. That's why this bill is so important to me because I feel like we can grow Nebraska, both rural and urban and truly create a market--

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

Floor Debate
April 15, 2019

WILLIAMS: Time, Senator.

WAYNE: --that's new for Nebraska. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Wayne and Senator Murman. (Visitors introduced.) Returning to debate. Senator Lowe, you're recognized.

LOWE: Thank you, Mr. President. In Section 2 of this bill, subsection 11, hemp means the plant *cannabis sativa* L and any part of such plant, including the viable seeds of such plant and all derivatives, extracts, cannabinoids, isomers, acids, salts, salts of isomers, whether growing or not, with the delta-9-tetrahydrocannabinol concentration of not more than .3 percent on a dried weight basis. Hemp shall be considered an agricultural commodity. Hemp products means all products with the federally defined THC level for hemp derived from or made by processing hemp plants or plant parts that are prepared in form available for commercial sale. Including but not limited to cosmetics, personal care products, food intended for animal or human consumption, cloth, cordage, fiber, fuel, paint, paper, particle board, plastics, or any product containing one or more hemp derived cannabinoids, such as cannabidiol. In other words, the THC that is found in the plant-- the THC that is found in the plant, as long as it is under the legal limits, can be extracted and used to make THC products within the manufacturing facilities in Nebraska. Just because it's .3 doesn't mean it is nonexistent. Doesn't mean it's THC free. It can be extracted and used in Nebraska. That, folks, is a problem. Production and use of hemp product will not be restricted by this bill. It should be noted that it is illegal under federal law for hemp to be put in the food chain, but we are allowing it. It can't be fed to animals that will be eaten by humans because of the buildup of THC and CBD. In most countries in the world that once allowed hemp to feed the livestock, now have outlawed it because the animals offspring were being born deformed. And so were the human offspring, the babies that ate-- the mothers ate these animals whether it was cows-- or this happened in France so it might have been horse --their babies were being born deformed because of the THC level because it accumulates just as in the human body, it accumulates. The THC level, the THC that's found in these plants, with this bill, they could be made into oils here in Nebraska.

WILLIAMS: One minute.

LOWE: Thank you, Mr. President. Once again, I warn this Legislature of where we are going with this bill. It won't hurt us to sit out a year until more studies are done. Other people from other states are moving to Nebraska because we are the good life. We have not allowed things like this to happen in our state. Let's stay the good life. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Lowe. Senator Bostelman, you're recognized.

Floor Debate
April 15, 2019

BOSTELMAN: Thank you, Mr. President. I have a couple things I want to talk about and Senator Wayne, you can listen in, I'll have a question or two for you when we get down there and you'll get the gist of my questions by the time I get to you. Something that was-- I think Senator Friesen mentioned earlier, I've been involved in alternative ag over the years. And one thing that does come up, is sometimes we get a new product in, whether it be an Aronia berry, whether it be grapes, whether it be woody florals, whether it be another type of thing we bring in. There's this big buildup that this could be the next thing that's the great thing for us to-- for a small, maybe small farms or others to do that is gonna be a great product, a great crop to grow. And then in the end, it really doesn't end up that way and there's one of the big reasons for that. And Senator Wayne touched on it a little bit ago and I'll let him-- I'll ask him here in a couple of minutes to expand upon that a little bit. But really, a lot of it is market. If you don't have a market, you can grow everything that you want, but if you don't have that market, it doesn't make any difference, 'cause you can't sell it, you can't move it. I think that's one thing that I've heard there's one buyer in the state that will buy this. That's one question that I'll ask Senator Wayne here in a couple of minutes. The other is, I'm looking at the fiscal note and there's some, if you want to take a look at that, maybe you know already, Senator Wayne, in the Department of Ag they've got a \$400,000, FY19-20 and a \$362,000 FY20-21 note in here. It looks to me. I may be reading it wrong. Also you go down further, the University of Nebraska is showing about a \$600,000 funding in there to purchase equipment and those type of things. So I'm kind of curious. There's some money that will come in in the registration processing, but then again, that's not going to cover these amounts. Where is that money going to come from? And the final area that I'll talk with you about here in just a minute will be on that sampling, where that gets sampled at. And if it should be more of a random where that's handled. So Senator Wayne, would yield to a couple of questions, please.

WILLIAMS: Senator Wayne, would you yield?

WAYNE: Yes.

BOSTELMAN: Could you briefly tell me a couple of additional areas where we have now in the state of Nebraska where we can take this product, process it and utilize it, this plant?

WAYNE: So right now, I only know of one processor who is here in Nebraska. I have been contacted by three processors who are looking to invest about 100 million because if we grow it in Nebraska, it's less transportation costs. So I only know of one that I currently-- but I will tell you on the retail side, you can walk into Walmart and a lot of other places and see these products and hemp clothing you can buy on-line, so there is a market.

Floor Debate
April 15, 2019

BOSTELMAN: Right. Right. I understand that. And a lot of times what it is is that we can't-- we may grow it quicker than we can manufacture and then get it out and that's kind of my question, or my comment is, is that people think this is going to be a great deal and we're going to make a lot of money this year on it. If we don't have manufacturers, that ain't going to happen. That's got to ramp up. Would you agree?

WAYNE: I would agree and that's why the bill is so critical to me is because to that point, I don't want the market to be saturated and Nebraska left behind.

BOSTELMAN: Sure. So on the next questions we have, looking at that fiscal note. Could you explain that a little bit to me where those funds, or how that's brought up?

WAYNE: The fiscal note is going to be changing here as we continue to move forward. The initial thought process is that they would have to go out and buy additional testing machines. That's why we inserted in the amendment, approve laboratory so the farmer could pay for that cost. I will tell you the fiscal note has been a moving target. And so we are still working-- and you'll see an amendment on Select File that will give us a better understanding of where some of the costs are 'cause they're still trying to talk to their counterparts in Kentucky, Tennessee, and Montana on what all they're doing.

WILLIAMS: One minute.

WAYNE: And so this is a moving process. But what everybody has agreed to this year is critical that we start at least the seed program and figuring out how to grow what we already have here in Nebraska wildly.

BOSTELMAN: Okay. The final question I have, we may or may not have time will be just the random sampling. You said South Dakota they didn't like it, but how are we going ensure that we do get a true view of that field because I know I can go across the field and I can pull samples and they will be different as I go across. So I can hand pick, you know, hand pick certain ones and get certain results. How are we going to keep that from--

WAYNE: So the random samples will be determined by-- I'm trying to talk fast --by the Department of Agriculture. What South Dakota didn't like was the free-for-all for state patrol to walk on to your property. So there was search and seizure issue that farmers didn't like just because I grow hemp, I don't to allow state patrol. What we've done, is we give a reasonable notice and that could be 24 hours in advance, maybe less, where Department of Ag is saying, we're coming out to test all of it.

Floor Debate
April 15, 2019

WILLIAMS: Time, Senator.

BOSTELMAN: Thank you.

WILLIAMS: Thank you, Senator Bostelman and Senator Wayne. Senator Dorn, you're recognized.

DORN: Thank you, Mr. President. Thank you, colleagues, for the good debate. I've enjoyed sitting here and listening to all the conversations, all of the different aspects brought up concerning this bill and a lot of times other bills. I do stand up today in support of LB657 and AM988. Listening to some of the comments, Senator Erdman, I think he brought up a good point when he talked about it's going to take-- or people, Erdman and Senator Friesen about the fact that people think this is just going to take off and go. I'll relate a little bit of our farming experience over the years. I remember when we started out with no-till. Some of the first guys in the area, nobody wanted to do it. They tried it and people really didn't accept it at first. It takes a period of time to get this developed and so other people want to use it and grow it and do it or whatever. Part of what this bill does is the first year because of the way the farm bills are coordinated, they will be research plots the first year. Different people will get to try growing this. It's limited to a certain number of plots or certain number of research plots. So, hopefully, different areas around the state will grow this. I do know that certain areas of the state it will definitely grow better in than other areas. Just because it works in southeast Nebraska, it may not work near as good out in the Panhandle. So this will help that process of starting up and getting this a growing business or whatever. But Senator Erdman, I think he brought up the fact that without the processors there, without other things there, this bill will-- I mean, this program will just not take off and go. I know Senator Friesen made the comment that we're not gonna get rich-- people aren't going to make a lot of money right away. This will take time to develop. It will take time to grow this part of the business. It's not going to be for everybody. Not every farmer out there will be growing this, not every farmer will want to grow this. There are going to be places, though, where it will definitely fit certain operations. Some people will be better at it than others. We will find out over time how that develops. One other thing, I know early in the session we had a meeting, I believe it was over the noon hour and I think they were from Senator Albrecht's area, the people from the Indian reservation, or whatever. And I can remember when we were over there and he gave a talk, and this was shortly after this was approved in the farm bill, he made the comment, the individual leading that that day, that said we will be having hemp grown in Nebraska this year because they are looking forward to growing it on the reservations. They don't follow our state guidelines. They follow the federal guidelines. And I remember he made that comment, there will be hemp grown in Nebraska this year because they had planned on doing it. So thank you, and I'll yield the rest of my time to Senator Wayne.

Floor Debate
April 15, 2019

SCHEER: Senator Wayne, 1:35.

WAYNE: Thank you, and I do appreciate the efficiency of this today. I don't have to push my button to answer some of these questions. So Senator Erdman, there is a couple things that I know about farming and I'm not going to pretend to be an expert. But I do know that if I plant a field of hemp and I want to be secret and plant some of the other plants, I'm gonna ruin everything 'cause my high quality THC product will crossbreed with the low product and it will cross-pollinate and not only do I run a risk of following the law, but I've destroyed all the crops. I just don't think farmers are going to do that. And we have a mechanism that prevents that by random testing that the department will set up. And if they patrol, feels there's anything else going on or county sheriffs or a neighbor, they can call and we can have more investigation done, which is also paid for by the farmer. Colleagues, there are some more people in the queue and looking at my vote card, I think we can continue to have a great discussion. I just want to stress that this is not about the other plant. There's bills that deal with that. This is not that. This is not a back doorway of sneaking in to grow the other plant. This is not that. This is about an industry that is growing, projected to be \$10 billion. And we can decide, do our processors here buy it from Canada or buy it from another state or do we buy it from our own? Do we grow our own?

SCHEER: Time, Senator.

WAYNE: Thank you.

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

ALBRECHT: Thank you, Speaker Scheer. I guess, as a farmer of ten years, I think our farmers in Nebraska are slow to change. I haven't had my phone ringing off the hook to make certain that I pass this bill. I also would like to ask Senator Wayne, where are you getting these seeds? You say that we are the lead in Nebraska-- Nebraska is the lead in the seed market. Where is the seed coming from? Would you yield to a question, Senator Wayne.

WILLIAMS: Senator Wayne, would you yield?

WAYNE: Yes.

ALBRECHT: Where is the seed coming from, since we're the leader of it in Nebraska?

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

Floor Debate
April 15, 2019

WAYNE: So the last four years we've had a researcher at the state of Nebraska who has grown hemp seeds and he's been across the state and has cultivated seeds from across the state and compared them to Italian seeds and other seeds.

ALBRECHT: Can I ask who that person is?

WAYNE: Ismail Dweikat-- I will give you the correct name. He testifies every year.

ALBRECHT: And where is he from and who is he?

WAYNE: He is the University of Nebraska's-- head actually of their hemp program and in the Agriculture Department.

ALBRECHT: And he has enough seed to get everybody started, the 200 farmers that you say want to do this?

WAYNE: No, no, that's not what I'm saying. What I'm saying is we need to get into the market so we can start either growing our own seed or buying seed or cultivating what's naturally growing here.

ALBRECHT: Okay. And you also talk about-- you say 200 people would like to asked to be certified in the state of Nebraska. Is that true?

WAYNE: I've been contacted by over 200 farmers, yes.

ALBRECHT: Wow. Any in northeast Nebraska?

WAYNE: Besides the tribes, there was one farmer who expressed interest and I can get you his name. But I don't want to put his name on mike if he didn't ask me to.

ALBRECHT: Okay. I'd like to go now to this fiscal note, if you'll follow me.

WAYNE: OK.

Floor Debate
April 15, 2019

ALBRECHT: I know that ethanol here on the floor in the last week had asked for a million dollars trying to promote E-15 and were redirected. With a fiscal note like this, do you see this going forward on our floor with the fiscal note the way it is as we speak?

WAYNE: Yes. I do see this going forward because most of my conservative colleagues here tell me to run government like a business. And if you can get invest \$400,000 to a \$10 billion industry, I think it's a wise investment.

ALBRECHT: Okay. So, when all the other products come to the market, do they all ask for ten members to be established for administrative business in the Department of Ag? You have to have-- what does it say here? The commission would be directed to periodically report to the Governor and the Legislature and hemp growing policies and practices to develop and coordinate the programs, to promote hemp, the cost for the commission would be paid from the Nebraska Hemp Program Fund. So, maybe you can tell me a little bit more about this. And then the cost for the commission would include travel expenses for the board members and may total two to five thousand per year. Any marketing programs developed under the commission would be based upon the available funding of the Nebraska Hemp Program Fund. How does that fund start and what does it take-- who pays into this fund? Is it the farmer, those 200 farmers that are going to get it started?

WAYNE: Is that the promotional fund or the program fund?

ALBRECHT: Well, it says here that it's a program fund.

WAYNE: So the program fund will be paid for by the fees. And I think we're getting a little confused on the hemp commission that's also being established. So the Hemp Program Fund funds the Department of Ag's people to administer the program. There's also an additional checkoff. What happens is a lot of our--

WILLIAMS: One minute.

WAYNE: --happens in a lot of our industry where we have checkoffs that will fund, particularly the wine industry, that will fund the promotion and the outside of the regulation and help people from the actual growers, manufacturers, people in the industry to help fund promoting this industry, which we do in the wine, corn, milk. A lot of our ag has checkoffs.

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

Floor Debate
April 15, 2019

ALBRECHT: Okay. And some of this money is going to come from the General Fund and some of it is going to come from your fund you just talked about. So how much would it cost to become a hemp farmer?

WAYNE: It would depend on the licensing fee, how many acres. I believe there's-- I'll get back to you on that. I don't want to take up too much of your time. I can't think of that right now in front of me.

ALBRECHT: And I'd like to learn more about this fiscal note that you say is going to change if we adopt this amendment. Didn't you say in Select?

WILLIAMS: Time, Senator.

WAYNE: Yes, yes.

ALBRECHT: Thank you.

WILLIAMS: Thank you, Senator Albrecht and Senator Wayne. Mr. Clerk for a motion.

ASSISTANT CLERK: Mr. President, Senator Lowe would move to amend the committee amendments with FA45.

WILLIAMS: Senator Lowe, you're recognized to open on FA45.

LOWE: Thank you, Mr. President. This amendment basically takes the .3 and reduces it down to .2, the cause being is because you can take the THC out of hemp. And by reducing the amount that we can take out, may save lives. You know, again, I say the THC is found in hemp and even though it is under the legal limits, it is still there. It can be extracted. It can be extracted and used under this bill. We need to take a long, hard look at this. You know, hemp will be allowed to be grown and manufactured as long as it is licensed. Can it be grown inside our cities? If you grow hemp for two or three years and it is inspected, and the inspectors are use to having it there, can you hide marijuana plants in with it, or close facsimile because the smell is still there? Hemp and marijuana have about the same smell and you can smell it when you're walking by. I've been told that if you raise hemp, you can't raise marijuana, but I think it's being done. Can it be raised across the street from our schools, our churches? Our cities and our municipalities may be in danger by this bill, not just our rural areas. There are a lot of crops that we can raise here in Nebraska, a lot of crops have been raised well. There's a farm between Lincoln and Omaha that raises pumpkins and does quite well with it. That's not a normal crop for Nebraska. Popcorn,

Floor Debate
April 15, 2019

Nebraska is the number one state for popcorn. Doesn't have to be seed corn, doesn't have to be field corn, it could be popcorn. By taking the level down to .2 percent as Senator Wayne has said, that older plants, they lose their THC. So it is possible. We just grow older plants, and only older plants are harvested and cultivated. We need to think about our future. Agriculture is very important to this state and we shouldn't base it on one crop like this. Corn is very important to us. We've tried other crops before where we've torn up pastures. We've tried to plant corn where it shouldn't be planted. And then taking it back to pasture is a tough thing to do once you've incurred the expense. If hemp doesn't make it, we have our costs in these new combines and heads for the combines. What do you do with the heads for the combines? Well, they're made for hemp and another product that I told Senator Wayne I wasn't going to try to bring up. It's perfectly made for another product that they grow in Colorado. Is that the next thing to come here because hemp doesn't make it? We can make more money with another product. Will that be the next savior to our state? I hope not. By taking the level from .3 to .2 is a good thing. I don't know if Senator Wayne would agree with that, but I believe it's a good thing. I don't know if Senator Brandt would agree with that, but I think it's good. You know, I look at my sons and the children that they will have some day and I don't see how corn is going to hurt them like this could hurt. I don't see soybeans hurting them the way this could hurt. We make other products with corn besides feed. As I've seen in the Bud Light commercial, they don't use corn in their product. Makes me want to try other beers. Taking it from .3 to .2 will save lives. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Lowe. Senator Hilgers, you're recognized.

HILGERS: Thank you, Mr. President. Good afternoon, again, colleagues. I appreciate the conversation on this particular bill. I'll be candidly. I think when I walked in here today I was leaning towards voting for it. I probably still remain in that camp at the moment, but I think these conversations and discussions I think are good. And if I were to boil down the issues that I want to unpack, some with Senator Wayne on the mike, and some just through discussion during our debate today, there's probably four. One is the impetus for this entire bill in the first instance. In other words, what does the federal law say about what we can do and what we should do and what will happen if we don't act? I think that's point one I'll discuss in a second. Point two and point three, I think, are related and that is how would opening up this particular industry impact the other plant that Senator Wayne doesn't want to mention, and the state's ability to enforce our current laws as the rights to that plant? But issue two and three, and the last issue would be how this interrelates with our nuisance law. We had a long conversation over the last couple of weeks regarding Senator Hughes's proposed change under LB227 to our current liability protections under nuisance law and what could happen if this were to pass and fields where-- or this particular crop would be planted? And so I do want to have another-- I see Senator Wayne is on the floor, I want to continue my dialogue with him on points 2 and 3. Before I do that, I will say for the record and I appreciate Senator Wayne's research and discussion on this, I have been

Floor Debate
April 15, 2019

investigating, been trying to find the actual federal law that was passed into law and I was able to find with Senator Wayne's help, Senate Bill 2667 which was from April 2018. That does lay out the original Senate Bill. It actually is-- purports --if passed into law, which I believe it did, would modify Chapter 7 of the U.S. Code, 7-1621, et seq. I can't actually find the language in statute right now. I've checked the actual, the U.S. House version of the U.S. Code as well as some others. I haven't been able to find it, which is to say that I don't know what the final version is. It may be absolutely identical to what I've seen in the April 2018 version, or it may be different. And so if I say what I see in the April 2018 version, that may be stale. So, but what I have seen in that, what I've read in that actually what I can't find and I'll ask Senator Wayne about either off the mike or on, what I can't find is any sort of suggestion that the federal government will act if the states don't act. What I do see in that particular bill-- the language of the bill, which may not have made it into law, it might have been modified, is that if the states want to take primary responsibility for regulating hemp, they certainly can. But there's no sort of time restriction or there's no impetus for us to do it within the next year or two. So for those of you who want to open this up and say, hey, this is a great thing, let's do it, regardless of whether once the federal government said we could do it at all, then that's a point that you don't have to worry about. For those of you who might say maybe we should-- I'm a little uncertain about this, there's some questions. Should we let this marinate a little bit longer? At least as I read the bill, which again could have changed, or I could be looking at an old version, that does appear to take away some of the impetus. It seems like what the federal government has said is, states can actually take primary responsibility for this if they want, whether they do it in 2019, 2020, or 2025 doesn't appear to be a material part of that particular bill. But again, that's not-- that's a conversation I'll have Senator Wayne or others who might be able to find the section of the U.S. Code and what the final version was. I do want to talk to Senator Wayne about points 2 and 3 now. So Mr. President, would Senator Wayne yield to a question, and can you tell me how much time I have?

WILLIAMS: Senator Wayne, would you yield? 1:20.

WAYNE: Yes.

HILGERS: Thank you, Senator Wayne. And since I don't have much time left, I actually might jump to the nuisance conversation you and I had off the mike which is, my understanding at least of Senator Hughes's-- his argument under LB227 is that if you were to change what you are growing on your property, say from corn to something like hemp--

WILLIAMS: One minute.

HILGERS: Thank you, Mr. President. --that that might be a change under current law that would mean that you would lose your-- you potentially could lose your protection against nuisance suit

Floor Debate
April 15, 2019

that might otherwise exist now is the reason why LB227 from Senator Hughes's perspective would need to be passed. Do you have any opinion or thoughts as to how the current law for nuisance liability or protections would relate to this bill?

WAYNE: That is 100 percent why I supported Senator Lathrop's bill is because of industrial hemp.

HILGERS: Thank you, Senator Wayne. How much time do I have left, Mr. President?

WILLIAMS: 23 seconds.

HILGERS: OK. Thank you very much. I'll continue this conversation the next time on the mike.

WILLIAMS: Thank you, Senator Hilgers and Senator Wayne. Senator Erdman, you're recognized.

ERDMAN: Thank you, Mr. President. Good conversation. Informative in some ways. I was wondering if Senator Brandt would yield to a question.

WILLIAMS: Senator Brandt, would you yield?

BRANDT: Yes, I would.

ERDMAN: Senator Brandt, I have several questions. Let's start with this one. They come to test your field, what procedures are going to be used to testing your field?

BRANDT: I believe that was outlined in the bill itself. You have to clip off so much of the plant and put it into a baggy and then that is FedExed, I think, to the testing site. But I'd have to read the bill again to confirm that.

ERDMAN: OK. So will they test the field in several places? Is it designated in the bill how many places they have to test that?

BRANDT: From my experience as a farmer, probably depending on field size, the bigger the field will be more test points. It's like when you soil test, if you have a very small field, you may do one test. If you have a quarter section, you may do six, seven, ten, whatever the protocol is.

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

Floor Debate
April 15, 2019

ERDMAN: But there's no requirement in the bill to how many tests are done by the acreage--

BRANDT: The bill leaves it up to the Department of Ag to determine that, yes.

ERDMAN: So let's say your tests come back and it's too high, can they retest?

BRANDT: There is a procedure in there that you can appeal to the Department of Ag and if you don't agree with the appeal, you can go to court here in Lancaster County. That's what the farmer can do. If it tests too high, the field must be destroyed.

ERDMAN: What if I don't live in Lancaster County, how will I go to court?

BRANDT: Excuse me?

ERDMAN: You said you can go to court in Lancaster County if your test was too high?

BRANDT: Yeah. That's how the bill is set up right now.

ERDMAN: What if I don't live in Lancaster County?

BRANDT: I'd have to get back to you on that.

ERDMAN: Okay. So then where is this test sent? Is there certain labs that are designated to test this?

BRANDT: Right now in the state of Nebraska, the State Patrol and the University of Nebraska have the ability and I believe it's set up for the university.

ERDMAN: OK. So the university would do the testing. So do you know what the seed costs per acre, what they are?

BRANDT: I do not.

ERDMAN: Because in the information that Senator Wayne sent out, and I'm sure you've probably seen that, on the second or third page, it says hemp grain can sell for 60 to 65 cents a pound and the average is about 1,000 pounds per acre produced. The net profit from cultivation

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

Floor Debate
April 15, 2019

cost-- subtracting cultivation costs of \$250 to \$300 an acre. So is there fertilizer used in this hemp?

BRANDT: Probably. I've been told when we had our-- the bill was introduced to our Ag Committee, we had some testifiers say it's very similar to dryland corn or dryland milo. You would probably need about 100 pounds of nitrogen.

ERDMAN: OK, a hundred pounds of nitrogen and I don't know what the seed is, but I've heard it's pretty expensive. It seems to me like the seed would have to be pretty inexpensive if you're going to net \$250 to \$300 out for harvesting cost.

BRANDT: You have three main components of hemp and that would be the seed, the fiber in the oil, and that has a-- is a factor in your profitability.

ERDMAN: OK. So let's say I raise hemp and I combine the seed and I have the seed separated from the rest of the plant, can I then as a producer keep my own seed?

BRANDT: As far as I know, yes.

ERDMAN: So Senator Wayne was talking about certified seed, and he was talking about we raise seed here in Nebraska. And my understanding is that in Nebraska, last year we raised like a half an acre, is that right?

BRANDT: That's right. The university under the 2014 farm bill has a half an acre out at Mead.

ERDMAN: So not a lot of seed can be produced on a half acre of hemp.

BRANDT: I don't think the seed has to come from the state of Nebraska.

ERDMAN: Okay, because Senator Wayne--

WILLIAMS: One minute.

ERDMAN: Thank you. Senator Wayne was talking about certified seed and the seed we had in Nebraska how good it was. So do you know how they harvest this stuff?

Floor Debate
April 15, 2019

BRANDT: What-- and this is just what I've read on my own, they use a regular combine and a regular grain head and if it's a very tall variety, they have adapter kits. They'll raise that head up to combine that seed just like a regular crop.

ERDMAN: So you just cut-- then what do you do, come back with a swather and swath it and bale it or what do you do?

BRANDT: There's some combination units out there that a header will cut the seed head off and then there is a swathing unit underneath that will windrow the stocks so that you can get two different products out of that crop.

ERDMAN: I would assume that hemp is probably pretty high in moisture. How long does it have to lay there before you can bale it?

BRANDT: Here again, based on what some of the testifiers have said, this is like a 60-day crop. You would plant it about June 1. It has about a 60-day window. It would get tested--

WILLIAMS: Time, Senator.

BRANDT: Thank you.

WILLIAMS: Thank you, Senator Erdman and Senator Brandt. Senator Lowe, you're recognized.

LOWE: Thank you, Mr. President. Once again I speak in favor of FA45. I have an article here from the Hemp Industry Daily.com. So I would guess that that would be pretty reliable with most everybody in here today since I believe it's probably three to 45. One of the fastest growing hemp sectors bears a striking resemblance to the marijuana industry, dried and smokable hemp flowers. The growth of hemp pre-rolls and loose flower has roots in Europe where cannabis enthusiasts have long-embraced smoking low-THC cannabis. But it's rise in the U.S. is catching a long-time hemp industry watchers by surprise. Bethany Gomez, who analyzes the hemp industry for Brightfield Group, a Chicago-based cannabis market research firm, said her team uncovered the smokable hemp trend this year while calling retailers, including smoke shops, spas, natural-food stores, to find out where they were selling. People kept saying, they were carrying pre-rolls. And we said, what, like marijuana pre-rolls? And sure enough, they're selling pre-rolls of hemp. Brightfield now estimates smokable hemp market at eleven and a half million dollars, a growth of 250 percent in 2017. It's a trend that's very much developing. So it's hard to tell whether it is a long-term play. There is no-- we were told there is no THC, or very low level. It is smokable. People are getting high on hemp. It says so in the Hemp Industry Daily. Once again I say, let's

Floor Debate
April 15, 2019

use caution on what we do. There are many, many other crops out there. We don't have to create a market. Hemp producers say the trend is giving them a new marketing opportunity. CBD product that doesn't require extraction, which makes it less expensive product to make, as long as you have room to dry the flower. I do believe I said earlier in my first speech that this hemp was what we use to call marijuana around here, and how did they get high back then? By smoking the flowers. We had some plants with great flowers and we thought we'd give it a try. Just selling it like that, says Charles Peterson, a North Carolina hemp farmer and retailer and head of National Association of Minority Farmers in Industrial Hemp. It's been a great product for us, said Peterson, whose store sell the pre-rolls for nine to fifteen dollars. You get the same taste, the same psychological feeling of smoking a joint. Also missing from smokable hemp, any regulations or testing requirements that come along with tobacco and marijuana products. Also missing from smokable hemp any--

WILLIAMS: One minute.

LOWE: Thank you, Mr. President. --any regulations or testing requirements that come along with tobacco or marijuana products. There's no check and balances. And this is what we want to do today? Ladies and gentlemen of the Legislature, please, let's take a second look at this. We're opening a cavern, a cavern that we will not be able to crawl out of once this is passed. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Lowe. Senator Blood, you're recognized.

BLOOD: Thank you, Mr. President. I hadn't planned on speaking again. One of the benefits of sitting on the floor for every debate for the entire debate, both the good and bad is the same, is that I hear the entire debate. And sometimes I'm dog-smacked at the amount of incorrect information that comes out. And I need to speak on this, especially for people that are watching this on TV right now. I don't know where the information came that claimed that if you feed hemp to animals, they have children with birth defects. I can tell you and I'm sure that probably Senators Murman and Halloran can probably tell you the same thing, we used to pick the ditch weed in our windbreaks and feed it to our goats and their babies are beautiful. Their babies were not defective. I know you said there was no harm to corn, but I seem to remember one time we got corn in one of our older silos and our goats got drunk. So I guess you can pretty much come up with a story of harm for just about anything. And by the way in that beer commercial, it was one of their products that they said they didn't use corn for other products in that beer and I'm not going to say-- promote for them on mike. They do use corn in their other products. But again, that stuff comes with research and comes with information that doesn't come from people that I think where maybe aluminum has. But the one thing that I've been really researching since I heard this bill was coming around is that livestock producers are really looking-- which again

Floor Debate
April 15, 2019

kind of debunks what you had to say, I'm sorry, Senator Lowe,-- and again, I'm sorry you're not feeling well --that they believe hemp seed is going to benefit health and increase performance when it comes to livestock. It's high in fatty acids like Omega-3, Omega-6, Omega-9, GLA, super high in proteins that contain amino acids, high in fiber, aids in animal's digestion, good source of minerals like copper, iron, zinc, magnesium, nitrogen and zinc, which is why many people on this floor eat it with their breakfast cereal and in their oatmeals in the morning. I think that we've got to stop putting out misinformation. We're not trying to open the doors to legalize marijuana. We're not talking about medical marijuana, although I'm sure those topics are coming up. I just-- I can't sit still while we put out misinformation and silliness. Let's make sure that who we get our information from is accurate. I, again, would challenge any of the other farmers that have fed their animals ditch weed to let me know about the birth defects that they experienced because I certainly don't believe it's true. With that, I'd like to yield any time that I have left to Senator Wayne, and I do, and I'm not sure I said this, stand opposed to both Lowe's amendment, but in favor of both the ag and Senator Wayne's bill.

WILLIAMS: Thank you, Senator Blood. Senator Wayne, you're yielded 2:10.

WAYNE: Thank you, Mr. President, and thank you, Senator Blood. I'm actually just in kind of shock right now. I'm trying my hardest not to pull a Senator Stinner and start yelling. I'm shocked. Okay. Let's start with .03. Let's start with this amendment and why I'm against it. .03 was federally defined by the feds. If we know more about drugs than DEA, then we are clearly in the wrong line of business because we're only making \$12,000 a year down here. But our DEA signs off on this and all the research at the federal level-- and think about this, to get something done at the federal level is almost like moving mountains. But for them to come back and say, this is fine that you can't get high off of it, to say that a senator says that in a Google search I found that they can is just unbelievable to me. But here's the most unbelievable part. If I take .3, 03 delta THC, and for those who don't know what delta THC is versus THC, THC comprises of THCA, THC--

WILLIAMS: One minute.

WAYNE: --there's a couple of other things that create THC, not just the delta. Delta is part of the psychoactive drug and that's why it's .03. So what we're talking about is minimal. Almost like Door's beer. It was supposed to be nonalcoholic but there's just a tad in there just in case you didn't know because it's minimal. But when you take .03 and you extract it out of one plant-- now hear me out, this is confusing. And you take .03 and extract it out of another plant, I don't know about you but wherever I'm at, .03 plus .03 equals .06. You are in violation of federal law. So you cannot extract out the .03 and create this THC product. That violates federal law.

Floor Debate
April 15, 2019

Like .03, plus .03. Imagine that. We take two samples from a plant and we extract out the THC. What do we get?

WILLIAMS: Time, Senator.

WAYNE: OK. Thank you.

WILLIAMS: Thank you, Senator Wayne. Senator Gragert, you're recognized.

GRAGERT: Thank you, Mr. President. I rise in support of LB657 and I see it as, once again, diversity, new innovation. And things like this is what leads to the importance of a bill we passed earlier and that is LB243, the Healthy Soils Task Force. They'll be able to investigate and include this in their action plan. They'll be able to take and use the agronomic and economic benefits of this crop. So we've already heard about testing, how we're going to test it. Well, such things that the university have nib guides and if they don't have a nib guide currently on hemp, I'm sure it won't be long they'll come up with one, and also including the Department of Agriculture. A couple of the entities that were suggested to be Healthy Task Force to be made up of, so I add, and thank you, Mr. President.

WILLIAMS: Thank you, Senator Gragert. Senator Wayne, you're recognized.

WAYNE: Question.

WILLIAMS: I will rule that out of order. Next in the queue is Senator Hilgers, you're recognized.

HILGERS: Thank you, Mr. President. Good afternoon again, colleagues. Just to recap a little bit of where I'm at. Identified at least four issues that are worth exploring from my perspective. One of them is the idea that this is either an opportunity for the state to act or the federal government is going to jam something down our throat. I think when I read Senate Bill 2667, it actually doesn't appear to be that way. It appears actually what the law says is that the states have the primary responsibility, if they so choose to be the primary regulator they can. Whether that happens this year or next year or 2025, is up to the states. I could be wrong. I'll repeat the same caveat that I had before. The second one is something I talked about off mike with Senator Wayne. I want to bring that conversation on mike and I'll do that in a second. And the last piece is really this nuisance idea. And so if you remember, and I think it's really important. I'm really glad that these two conversations have taken place around the same time. So those of you who were opposed to Senator Hughes's bill, LB227 last week, and you support LB657, you should--

Floor Debate
April 15, 2019

maybe not reconsider. I would suggest reconsider your opposition to Senator Hughes's bill, but you should think hard about how those two bills interrelate because the reason that Senator Hughes brought LB227, the thesis of this bill is that if you change what you are growing, if you change your operation, so potentially growing corn to growing hemp, and that new operation is a nuisance, you've lost your nuisance protection that you might otherwise have under current statute, unless LB227 is passed. And so I think if we are saying if that is true, and on the one hand we are denying operators and growers the opportunity to continue their nuisance liability protection by changing their operation, but at the same time encouraging them to run into and get involved in a new industry and growing a new product that itself maybe create a nuisance, I think that sends the wrong signal. In fact it sends conflicting signals in my view. So I think it's a really important point. I'm glad they're happening close in time and for those of you who are opposed to LB227 but support LB657, I'd ask you to think about how those two can be reconciled. The next point I think are how does-- and there's sort of, it's point 3a and 3b. I think they are interrelated, which is, how does the idea of allowing this industry impact our ability to enforce laws with other species of this particular plant? There are certain-- hemp itself, as it's defined under the federal laws, as it's defined under LB657 and the amendment, pull that particular species, very narrowly defined, if you read the definition, it's very specific, pulls that out of the Controlled Substances Act, Controlled Substances Act, but it leaves other species intact. In other words, it legalizes this, but not others and there's some similarities, and I think it's important for us to unpack and explore how legalizing one might impact our ability to enforce the other. And so with that, I do have a couple questions for Senator Wayne if he would yield.

WILLIAMS: Senator Wayne, would you yield?

WAYNE: Yes.

HILGERS: Thank you. Thank you, Senator Wayne. So you and I had this conversation off the mike and I think it's important to put on the record. As I was reading your bill, or the amendment, I should say, there are two instances in which it referenced the inspection regime for cultivators that I saw. One was on page 4, lines 28 through 31, which said the department has-- could create regulations that would have at a minimum annual inspections of, quote, a random sample of hemp cultivators, to verify that hemp is not cultivated in violation of the act, etcetera, which to my mind suggests not a random sample of a hemp cultivators, you know whatever they're growing, so some portion of this acre, but not a portion of the other acre, but actually a random sample of everyone doing it. So, in other words, one specific cultivator may not get an annual inspection--

WILLIAMS: One minute.

Floor Debate
April 15, 2019

HILGERS: Thank you, Mr. President. --versus page 12, 17 through 20, which talks about what a cultivator consents to and that is at least annual inspections and you clarified off the mike what your intent is and I was wondering if you could explain that on the mike.

WAYNE: Yes. So the federal law says that each cultivator has to be inspected at a minimum of annually and so I didn't read it that way. But now that you pointed that out, I will clarify that on amendment to make sure each cultivator has an annual inspection and that they consent to at least the annual inspection, but they also can consent to more if the department feels they need to do more testing.

HILGERS: Thank you, Senator Wayne. I think I'm out of time and I appreciate this conversation and hopefully I'll be able to finish it up on the next time at the mike. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Hilgers and Senator Wayne. Senator Slama, you're recognized.

SLAMA: Thank you, Mr. President. I rise again in support of AM988 and LB657 and opposed to FA45. I think there has been a little bit of misinformation on the floor in this debate, so I'd just like to clarify by reading a few articles that I think give us a good grasp on what this hemp bill is, what it means for our state, and what hemp as a whole is. So citing my first article, after the passing of the 2018 federal farm bill, the growth, cultivation, and processing of hemp was legalized in the United States. LB657 seeks to create the Nebraska Hemp Act which implements a hemp industry and hemp farming program in the state of Nebraska. Hemp is a drought resistant crop and can serve as a rotational cash crop. For most of U.S. history, hemp was an important widely grown crop. At the first permanent English settlement in Jamestown, Virginia, hemp is recorded in being production as early as 1619, 400 years ago. A century and a half later, George Washington and Thomas Jefferson were growing hemp on their land and John Adams was writing about the crop's many uses. The hemp industry spread across the United States and by the end of the Civil War, it had made its way to Nebraska. By the 1940s, Nebraska was the largest producer of hemp in the United States. The wild and heirloom hemp found across the state today are the descendants of what was this prominent Nebraska hemp industry. And I'll just zoom out for a second and put on the record that you cannot get high from smoking industrial hemp with the level of THC that we have in this bill. The level of THC we have in this bill is much like ditch weed and I'm sure some rural kids-- some of the pages are kind of smiling right now because they know that you cannot get high off of ditch weed. You'll get one heck of a headache, but you will not get high off of it. LB657, with the adoption of AM988, will temporarily expand participation in the hemp research pilot program authorized under Section 25-701 to enable wider participation for the 2019 growing season using the regulations laid out in the 2014 federal farm bill. It is anticipated that the hemp program authorized by this bill would provide the structure needed to prepare and implement a state plan to conform to 2018

Floor Debate
April 15, 2019

farm bill hemp provisions for the 2020 growing season and beyond. There is an emergency clause. You can find this in Section 23, page 24 of AM988, included in this bill an amendment. So as soon as the bill is signed, farmers can begin submitting applications so as not to miss the 2019 season. The global hemp market is estimated to be \$10.6 billion by 2025. Kansas has already legalized the growth and sales of industrial hemp. Iowa and Missouri passed legislation to grow that hemp in 2018. Wyoming also passed legislation this year. In 2017 when this bill was first introduced, Montana had only 542 acres of hemp in production. Today, they have over 22,000. We are behind our neighboring states who are competitors in this emerging market. LB657 and AM988 creates the application process for cultivators, processors, handlers and brokers to be licensed and register sites with the Nebraska Department of Agriculture. The bill and amendment will lay out--

WILLIAMS: One minute.

SLAMA: Thank you, Mr. President. --lay out the license application and registration fee schedules. License fees and registration fees would be remitted to the Nebraska Hemp Fund, which will be established by the passage of this bill. LB657 and AM988 create a process for farmers and cultivators to test their crops for THC content to ensure it complies with the .3 percent THC content level of industrial hemp legalized under the 2018 federal farm bill. At my next turn up on the mike, I'd like to cite another helpful article CNN published December 20, 2018 by Harmeet Kaur. Title is, Hemp won't get you high (and other things to know now that it's legal). Thank you, Mr. President.

WILLIAMS: Thank you, Senator Slama. Senator Erdman, you're recognized.

ERDMAN: Thank you, Mr. President. Interesting conversation. I happened to be watching and looking around when Senator Slama was talking. There was like four people listening. Sorry about that. But that's the way it goes here. But the question I had earlier was how much does the seed cost and how much do you plant? Those kind of issues. I looked it up. The seed costs about \$250 for a 40-pound bag and you plant about 40 pounds to the acre. That's 250 bucks. So it's pretty expensive seed. I'm not sure how you make \$250, \$300 an acre when you are getting only 650 total. But anyway, it is what it is. But I was wondering if Senator Wayne or Senator Brandt--let's go with Senator Wayne. Would you answer a question for me, Senator Wayne?

WILLIAMS: Senator Wayne, would you yield?

WAYNE: Yes.

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

Floor Debate
April 15, 2019

ERDMAN: First of all, Senator Wayne, thank you that you didn't lose your cool and slam things down because I've been in, sort of in your position once and I tried to keep it under control and I appreciate you doing that. My question is in the description of the bill it talked about site charges, \$100 for the grower, a maximum 150. And then it talked about the processor and those things. So my question is, if I have two different fields, I have two site charges, is that the answer to the question?

WAYNE: Yes, I believe so. I can get clarifying, but it does says per site. So if you have multiple sites, yes.

ERDMAN: So if I had-- does it make a difference if my field is ten acres or a hundred acres, is it still \$100?

WAYNE: Yes. It's still the same.

ERDMAN: All right. And so then each farmer on each one of his fields, it will also be, as you said, logged in so that they'll be able to find his field where he planted, is that right?

WAYNE: So in the application, they do have to put down their GPS coordinates of where it will be grown.

ERDMAN: Okay. So maybe this is a chance-- see what you think of this comment. Maybe this is a chance for us in agriculture to use TIF to build a processing plant. What do you think?

WAYNE: In counties?

ERDMAN: No, we'll do it in your district where it's sub-blighted.

WAYNE: Uh, I'm welcome to anybody who wants to build in my district, whether it's TIF or not.

ERDMAN: Okay. But we have to figure out a way, and that was kind of a-- just statement, but we have to figure out a way to process these plants and handle this production. I believe before it becomes a viable crop, those are the things that have to happen.

WAYNE: So in response to that, if I may for a quick second, to say it's not viable, is saying that we currently don't have an \$810 million industry.

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

Floor Debate
April 15, 2019

ERDMAN: Okay. What I'm trying to say is this. In my past life, I was a farmer. And I understood these specialty crops and how to make these crops valuable. And you have to have a processing plant to make this work.

WAYNE: Correct.

ERDMAN: So, I'm telling you before hemp becomes a viable crop in the state of Nebraska, we're going to need some processing plants to manufacture and process these products.

WAYNE: So to respond, there is one plant right now in Plattsmouth called BastCore. But here's the issue. Technically, they can't have hemp. We don't have a manufacturing license. So pass this bill and let's grow that industry.

ERDMAN: Right. But even if we had hemp grown in Nebraska, how much can one little plant--

WILLIAMS: One minute.

ERDMAN: --in Plattsmouth, Nebraska, process.

WAYNE: Well, actually this plant can do up to 25,000 pounds a day. They can do a lot. And the fact that they're spending millions in Canada that we're already missing.

ERDMAN: Right. Okay. Thank you. Senator Lowe, have you seen-- will you yield to a question?

WILLIAMS: Senator Lowe, would you yield

LOWE: Sure.

ERDMAN: Have you seen the movie, Dumb and Dumber?

LOWE: Yes, I have.

ERDMAN: And you've see in the scene where the guy says there's one in a million chance? Have you seen that part?

Floor Debate
April 15, 2019

LOWE: Yes, I have.

ERDMAN: And then he says, there's a chance.

LOWE: There is a chance.

ERDMAN: That's the way I feel. Thank you.

WILLIAMS: Thank you, Senator Erdman, Senator Lowe, and Senator Wayne. Senator Lowe, you're recognized and this is your third opportunity.

LOWE: Thank you, Mr. President. Smokable hemp. Let me go back to that for just a minute, and the reasoning why I have FA45. We need to reduce the THC level. We don't need our kids going out picking flowers out of fields. Not ditch rows, but fields of hemp. It's one more thing that will lead them down a bad path. It will become a problem and we are going to create that today, tomorrow, or sometime. The Legislature is going to create a problem with our youth. Continuing with the article that I was reading about the smoke shop that is now selling it. It says, most of my clients are on the East Coast where smokable marijuana flower isn't available. His company experimented with a product this year and found the demand so strong that it plans to devote a hemp plot in New York to its production in 2019. That's not for the stock. That's not for the seed to plant somewhere. That's for the flower to smoke it. And what we are creating will be combines and combine heads. We'll be creating drying barns. We'll be creating hot houses to roll the hemp in. We'll be creating something that can move very quickly if we legalize marijuana. Everything will be in place to do it. Think about what we're doing here today and think about why we are doing it and why we are pushing so hard to do this. Should we? Are we giving up on the fight for our children? Are we giving up the fight against drugs? They say-- Senator Wayne has said that this is --we must keep the two plants separate. But when we are creating the market, when we have everything in place, then we cannot separate it. And with that, I withdraw my motion.

WILLIAMS: Thank you, Senator Lowe. Your motion is withdrawn. Mr. Clerk.

ASSISTANT CLERK: Thank you, Mr. President. Senator Lowe would move to amend the committee amendments with FA46.

WILLIAMS: Senator Lowe, you're recognized to open on FA46.

Floor Debate
April 15, 2019

LOWE: Thank you, Mr. President. FA46 is a simple amendment. There's a list of ways to contact the person who is growing and distributing and cell phone was left out. So I'm just adding cell phone to that list. It's a simple amendment. And I think it could be agreeable by, I believe, everybody on the floor. As you can tell, I just want extended debate on this subject. This is a major bill this year. This is a bill that Senator Wayne has been wanting for the last three years and he finally got it to the floor. And I'm glad to see that he's putting his effort behind it. I don't like to see the way we are folding and giving in to it. We are on a slippery slope, as I said just a few minutes ago. We are going to have the combines, going to have the combine heads, we're going to have the planters. We're going to have the drying racks and the drying barns and the hot houses. We're going to have the distribution systems set up. Now, if this was just an agricultural product like it's being built as, the way many of our products-- our bills are put out, it would not be much of a problem. Sure, we take corn and we make whiskey out of it. Sure, we take wheat and we make beer out of it. But those have been legal. I had a comment-- somebody came up to me earlier and said, Senator Lowe, you would be a prohibitionist now. We would not be drinking today. That might be the case. I may not have made money in my past because I owned bars, but I did have standards. When I bought my first bar, I took the cigarette machine out when smoking in bars was what you did. I didn't like smoking. I did my own filibuster. I was the only bar that I knew of that didn't have a cigarette machine where you couldn't buy cigarettes from behind the bar. I do have standards and that's why I'm standing up today here, probably going to lose 45-3, but I'm here standing. I fear where we are going with this bill. I fear the repercussions by our children. You know, if we're going after a product to save the agriculture industry, why don't we just go to something else? Cocoa beans. I hear there is a great market for cocoa beans, or coffee, or papyrus. There are a lot of products out there, lot of agricultural products out there. They're ancient. This was billed as an ancient product, an ancient agricultural plant. We can grow many things in this state, tomatoes, potatoes, corn, soybeans, cucumbers, pumpkins. To say that we need this one plant to survive, that we need to build a whole new industry in this state so that agriculture survives, I don't believe that to be the case. It's something that has been brought to us and we must make a decision on. And for that, I thank Senator Wayne because Senator Wayne knows that I have been against this since we were in Ag Committee. You know, I keep on going back to the THC can be extracted and can be used with this bill. I've heard nobody say it can't be. Why would we do that? Why would we do that? Why would we jump ahead? We've got time. We don't need to pass this bill this year. I didn't see any bills for tomato growing or anything else that's perfectly legal. We need to do things the right way. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Lowe. Returning to the queue. Senator Wayne, you're recognized.

WAYNE: Thank you, Mr. President. I'm starting to get blurry lines between filibuster, extended debate, changing the vote count from 25 to 33. Today, Senator Lathrop had a bill that I didn't like, and I made a choice to speak three times and that's it. I made that choice because there are

Floor Debate
April 15, 2019

some things that we should take time to go through and stand the ground and maybe this is that moment for Senator Lowe. But the rationale I continue to hear just is not following along with some logic. Infrastructure for the other plant and extraction, Senator Lowe, has been built since we started building ethanol plants 'cause the extraction method is exactly the same. You're talking about seeds and extracting it to oil. In fact, there are-- when we had a dinner one night, there was a large corn and soybean manufacturer in the state of Nebraska who nationally and internationally are looking at hemp and would love to have it here in Nebraska. And those who were at that dinner know because he said it out loud so many of us in here. My point is, is, we can continue to be the same. We can continue to go down the same path of saying we want less government until we don't. We want local control until we don't. And we can continue to say no to everything that comes up. Or we can step back and we can look at this industry-- look at what's happening across the country as it relates to this industry, and see that everybody is moving into hemp as far as an alternative crop. Some farmers may not ever want it. But all of the vegetables and fruits and agriculture products, Senator Lowe, you named that we could go into, they can do that right now. The difference is they can't grow hemp right now. That's why they're not going into this industry. And for us to sit here and say that we know better than the DEA, we know better than all the medical experts who say this, and, in fact, there are multiple studies that show that when you feed hemp cake or hemp seeds to livestock, they actually produce better meat, better fatty acids, better things and nutritions that we need when we consume. Multiple European studies. I would love to have those studies here in Nebraska. I would love to be the leader in hemp research, not only for medical, but for agriculture, for everything. We're talking about a \$10 billion industry where we are continuing to find and struggle with ideas of how to raise revenue. With this, this is also awkward, but I always do this for efficiency, I would like to yield my time to Senator Hilgers to see if he has any more questions for me.

SCHEER: Senator Hilgers, 1:20.

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

SCHEER: Senator Wayne, would you please yield?

WAYNE: Yes.

HILGERS: So the two questions-- one of the questions that I have not discussed, but I want to talk with you and I'll just ask you the question, you could take up the rest of the time which is, when you talk about enforcement of hemp with the other plant, with the smell and the size, can you talk about how there might be-- might or might not be confusion between those two when one of those two might be legal and one of them might not.

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

Floor Debate
April 15, 2019

WAYNE: So hemp itself is a very tall product. It is as tall as me if not taller. The other plant you're talking about is three feet wide and grows out. The reason it grows out is because they care more about flower than they do the actual stalk and seed. Nobody smokes seed. It's the flower where they get the THC from. So you ask any patrol person, any police officer, law enforcement, who has any narcotic experience, they can tell you the difference between ditch weed growing, which is hemp, and the other plant, which has high THC. In addition to that, we will have GPS location requirements on all fields. Now, if you are growing-- if hemp is naturally growing and you're not using it for commercial purposes, you're not looking to sell, you're not looking to use it or consume it--

SCHEER: Time, Senators. Thank you, Senator Wayne and Senator Hilgers. Senator Hilgers, you were next in the queue, did you wish to use that time?

HILGERS: No, I did not.

SCHEER: Okay. Moving back to the queue then, Senator Slama, you're recognized.

SLAMA: I'll waive, Mr. President.

SCHEER: Moving down a little. Senator Lowe, you're recognized.

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

SCHEER: Senator Wayne, would you please yield?

WAYNE: Yes.

LOWE: Senator Wayne, in this bill is there a limit to the number of farmers that can produce hemp--

WAYNE: No.

LOWE: --this next year?

WAYNE: Well, practicality no, but practicality suggests yes. The statute does not limit it. Yes, there's no limit per statute.

Floor Debate
April 15, 2019

LOWE: So we are going about this full force. It's not limited to 10 farmers or 25 farmers?

WAYNE: No, because studies have shown in North Dakota and other places that there's roughly about 3,000 acres the first year and then the next year it typically grows. So because we have land owners who own 3,000 acres, we didn't feel it was appropriate to limit by acre or by a number. We toyed about having it congressional districts of having numbers, but it just-- with the way Omaha and western Nebraska is, we get into the weeds of is where it's located, it's the owners, and we thought it was best to leave it up to the department to do a licensee program to make sure it reaches research purposes.

LOWE: Okay. Thank you. One more question, if you would. Is there a size limit, both on the upside or the down side?

WAYNE: No. The only limit underneath this, in the stop-gap period until the federal regs are done, is the only limit is it has to be for research purposes, which is currently under 2014 farm bill. So for the next two years, we're operating underneath the 2014 farm bill. So that limit means it has to be done with research. So that's the only limit, it has to be done through the department for research.

LOWE: Okay. Thank you. That being said, that there is no control with this bill, you could grow it in somebody's backyard. You can grow it in your basement as long as you have the license to do so. You can grow it in your garage, in your upper story of your house, you can grow it in your bedroom. It just takes light. You can grow as large as you want. You could take up those 5,000 acres to have one heck of a field of hemp. I feel sorry for the farmer that's farming next door 'cause when birds eat the seeds from hemp, they deposit it in the fields next door and now you must use a stronger herbicide to get rid of it because if you ever ran into a hemp stalk or multiple hemp stalks in your field, your combine comes to a grinding halt and you'll take an hour or so cutting with a knife, losing valuable time in your field. That's the hazards of the agriculture part. That has nothing to do with our children who will be collecting the flowers to smoke. Once again, I caution us. I caution the other 45 senators. Senator Wayne, you probably won't even have to do a call of the house. This is a dangerous slope that we're going on. I feel for the state patrolmen, the police departments.

SCHEER: One minute.

LOWE: Thank you, Mr. President. Their drug dogs are going to be useless. They'll go crazy around here because of all the hemp plots, because there is no control. It could be every other house in a neighborhood growing hemp or something else. We're going to implement everything that is needed for the next step, people. And that I warn you. We no longer make ropes from

Floor Debate
April 15, 2019

hemp. We found better products. We no longer make sails from hemp. We now have nuclear engines. Thank you, Mr. President.

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

HILGERS: Thank you, Mr. Speaker. This might be the last time I talk on this this afternoon. I appreciate the conversation that-- Senator Wayne, a couple more questions in a second, but to just reframe where I'm at. I've talked about most of the issues that I wanted to talk about. I identified four. We've unpacked I think several of those. The last I want to talk about is just some of the inspection, some of the differences between hemp and its cousins that on the one hand hemp would be legal under this bill, the others would not and whether or not that muddles our enforcement regime that we currently have. So would Senator Wayne yield to a question?

SCHEER: Senator Wayne, would you please yield?

WAYNE: Yes.

HILGERS: Thank you, Senator Wayne. So the last time you and I were having the dialogue, you were explaining the physical differences between the two. I heard size and then also what about smell?

WAYNE: Well, there are so many varieties of the other plant. I can't tell you that it won't smell exactly alike on every one of them, but there is a distinct smell. But they're still going to have be an underlying hemp smell. But there are-- I mean, every rose doesn't smell the same either. It's hard to explain it.

HILGERS: Is there from an enforcement perspective, did you hear from the State Patrol at all regarding any concerns they might have with trying to enforce one but not the other?

WAYNE: No. I'll just point back to in 2017, State Patrol put a \$10,000 per acre requirement on my bill and that was because some leadership change had occurred. People who were starting to get a lot more educated on hemp versus the other plant, and this year there is nothing simply because they are treating this like a commodity-- agricultural commodity, sorry.

HILGERS: Thank you, Senator Wayne. What about the Attorney General's Office? Any opposition to the bill as amended?

Floor Debate
April 15, 2019

WAYNE: No, we've been working with them, the department, State Patrol. There's some- a little amendment that we're going to put in for the Department of Ag to clarify a couple language. I do like the amendment that you suggested around testing, but everybody seems to be okay.

HILGERS: Thank you, Senator Wayne. So on the testing, I appreciate your comment on the amendment. This is my last couple of questions that I've got. As I understand it, the Department of Ag is going to do the inspections, right?

WAYNE: Correct.

HILGERS: And those will be funded through the fees themselves, correct?

WAYNE: No, the inspections will be paid for at the cost of the grower.

HILGERS: Now is that different-- the first one, is that a different payer for the first one versus subsequent ones or are they all paid by the grower?

WAYNE: The first one is paid for by the grower. If the department feels there's a issue, they would have to pay for subsequent testing.

HILGERS: And no objection from the department on that piece of it?

WAYNE: No, that's part of their fiscal note.

HILGERS: And then, the only other question I had was on the-- as I read the bill, it would permit indoor growing, which I understand was from a greenhouse perspective that would make some sense. In terms of a small apartment or small home, any concern with opening that up?

WAYNE: No, you still have zoning requirements at the local level. So, I mean, you can have a plant, I guess, but you'd have to get a license for it. And we can tighten that up, I guess, but the idea of greenhouses, people in Omaha still want to grow greenhouse hemp, I think is fine.

HILGERS: Thank you, Senator Wayne. So I appreciate Senator Wayne's work on bringing this bill in the first place. I appreciate his willingness to work with senators and other stakeholders to get this done. At the moment I do intend to vote green on the underlying bills amended by AM988. I appreciate Senator Wayne's willingness to work between General and Select on the-- at least one issue I identified. There's another one. The second one in terms of potentially

Floor Debate
April 15, 2019

limiting it to where they could be grown is one I want to dialogue with Senator Wayne about between this round and the next and there may be some ancillary issues that come from that. But I appreciate the work that he's done to try to grow our state. I think there are some legitimate concerns. I think we've discussed many of those concerns. I appreciate the debate and dialogue here this afternoon and that's probably the last time I'll speak on this. Thank you, Mr. Speaker.

SCHEER: Thank you, Senator Hilgers and Wayne. Senator Lowe, you're recognized and this is your last, other than your close.

LOWE: Thank you, Mr. President. FA46, to add the cell phone. The easiest way to contact anybody anymore, except for me, I think I threw my cell phone away today at lunchtime. Maybe we also ought to add on there e-mail. Again, I worry about this bill. I worry because of the way that we are gearing up for something else. I worry because we're losing our morals and I'm not saying this bill does it. Alcohol started it. We had cannabis and cocaine in this country at one time and we wisely chose to get hid of them, but now we're bringing it back. Senator Wayne had said that this is a growing industry and we need to get in it on the ground level. That's what the proponents said in Colorado too, and California, and Oregon. We need to do this. Right now, we have people leaving Nebraska for Colorado. Why? Because of what they can do there. On the flip side, though, we have people leaving Colorado to come to Nebraska because of what we don't do here because we are still the good life. Now Senator Wayne asked us not to get into the weeds, so to speak, but I believe we must with this bill. We are talking about cannabis, after all, aren't we? There are different varieties of corn. There are different varieties of cannabis. This is one. We are putting in place everything that we need for the other cannabis. We need to think about that. As people are going on and doing the other things that they're doing, they're working on their computers, they're not listening very well. This has been repeated a dozen times today, this afternoon, and I believe it is that important. The two of us have stood up here today talking about this because we all have people in our districts that are for this. I've got a good friend and he was a backer of me in my campaign and he begged me to vote for this. I'd rather lose a friend than a state, and that's where I'm at with this. This is our state going down a slippery slope. You can't hear it.

SCHEER: One minute.

LOWE: Thank you, Mr. President. You can't hear it. It doesn't have a sound. There's no swooshing. There's no screaming. It's just people talking and me muttering words. This is a slippery slope that we're on. Thank you, Mr. President.

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

Floor Debate
April 15, 2019

GROENE: Mr. President, is Senator Wayne here? I'd like to ask him a question.

SCHEER: Senator Wayne, would you please yield?

WAYNE: Yes.

GROENE: Senator Wayne, is this the same as ditch weed that grows in my pasture?

WAYNE: I haven't been to your pasture, but I'm assuming, yes.

GROENE: All right. Thank you. That is my concern. I grew up in the '60s and the '70s in rural Nebraska. Back then, the soldiers coming home from Vietnam brought marijuana to our country and to our small towns. It came from there. I remember as a kid out in rural Nebraska, these funny-colored vans driving through the countryside with long-haired people in them, harvesting ditch weed. I mean, you can laugh about it. Counties and states put into statute that you had to spray. It was a noxious weed and you had to spray it because it was being harvested. I loved the stuff, not because I smoked it, it's where you found pheasants. They would-- I think it's one of the reasons pheasants went away. The habitat, we took it. But, that said, it does have some potency. It does. And over the years, I asked the DOT guy, not a DOT, a DOE guy, one time, I said, how come nobody knows how to farm. How come we don't spray the ditch weed anymore? He said, well, it's like corn. They made a hybrid of it. It's 16 to 17 percent stronger, the hybrid is than the ditch weed so nobody-- those who take part in marijuana don't even think about ditch weed anymore. But it does have potency. It does. And you can smoke it and kids will. They will smoke it. They will harvest it. They will put it on their brownies. They will put it in their Kool-aid. They will do it just like they sniff aerosol cans and why they sniff gas cans and whatever else they do because life isn't good. But that will happen and it will be used for that, just like it was in 1960 and in the '70s. It's the same stuff. It's a weed, too, and it will spread. It will spread just like any other weed does and infest other fields. It's not a good weed when you run it through a combine. Now that said, am I going support this? I'm leaning towards supporting it because of the agricultural input. Can we pass laws because fools are going to use it wrong, and young people are going to go out there and harvest it and smoke it? Maybe they should. Maybe if we were smoking that instead of the stuff they buy from the drug dealer, it would do less damage. But I don't like the stuff. I had a roommate in college, grew up in the same town I did, who smoked it a lot. Came from a good family. He's under a bridge somewhere, last I heard, and that's not funny. It does lead to other uses. I've been in the employment field. It is not a good drug. It takes away ambition. It takes away drive. If you want to be hanging around people that are always in a good mood, they're not a bad group of people, but don't hire them. It's a bad drug. Can we police it enough to make sure it stays industrial? Maybe. But I seen it. I seen the people as the high school students, small town, the kids--

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

Floor Debate
April 15, 2019

SCHEER: One minute.

GROENE: --the soldiers coming home from Vietnam bringing that stuff, I've seen it. I seen the damage. I seen how it destroyed lives. I don't care what it cures, I will always fight against it to be legal in this state. Hemp, you might sell me on it as an ag product, but it is not good for our society to start giggling and laughing about the dangers of drugs. It's still a potent drug. Same as it was in the '60s and the '70s. You can call it what you want. It won't give you a headache. It's like smoking your first cigarette. It hits you hard and the first time a young person smokes this, they'll think it's a high they've never dreamed of having. And they'll progress to the more potent stuff. But for agriculture's good, I'll probably vote for it.

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

McCOLLISTER: Question.

SCHEER: Do I see five hands? I do. The question before us is, shall debate cease? All those in favor please vote aye; all those opposed vote nay. There has been a request to have a call of the house. All those in favor of calling the house please vote aye; all those opposed vote nay. Please record.

ASSISTANT CLERK: 19 ayes, 8 nays to place the house under call.

SCHEER: The house is under call. Senators, record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Bolz, Stinner, Pansing Brooks, Hilgers, Senator Groene, would you check in, please. Senator Chambers, would you check in, please. Thank you. Senator McCollister, we're still waiting on Senator Bolz and Stinner, can we proceed? Senator McCollister, are we accepting call-ins? Members, we are accepting call-in votes if you notify the clerk.

ASSISTANT CLERK: Senator Lathrop voting yes. Senator Pansing Brooks voting yes. Senator Hilgers voting yes. Senator Slama voting yes. Senator Geist voting yes.

SCHEER: Please record.

ASSISTANT CLERK: 25 ayes, 2 nays on the call of the question.

Floor Debate
April 15, 2019

SCHEER: Motion is adopted. Senator Lowe, you're welcome to close on FA34. Excuse me, FA46.

LOWE: Thank you, I wouldn't know what the other one was. FA46. You know, I think it's very important that we're able to contact people and that's why I put cell phone in there. I don't think it's a bad addition. And I think that we need to look at this bill very carefully. I'm very fearful, again, for those of you who are not on the floor the last hour and a half, two hours, three hours, whatever it's been now, of where we're going with this. Hemp does have THC, .3 percent. Not a lot, but it does have it. And this bill does allow the extraction of it. What are we going to do with that? What's the market for that? Is it for the good or for the bad? This bill allows small plots. You have ten plants, 20 plants, 30 plants, you know, a closet with a grow light on it. You have a field of 10,000 acres. It goes across the board. There are no limits. This is the cannabis plant. There are no limits to the number of licensures issued. There is no trial period. This is something we're running, we're jumping into the water without knowing the depth. And once you give something, you can't take it away. It's very hard. It would be much better if we went at it a step at a time. None of us ran off the bat. Most of us crawled or scooted first. But we're asking everybody to do hurdles on this one right off the bat. We're setting up production. We're setting up places for production, greenhouses, hot houses, rooms in our houses, fields, backyards, potted plants. We're setting up drying facilities because you can use the whole plant in this bill. This is not for the stalk. It's the whole plant. It's for the seed, for the flower, for the stalk, for the root. You can use the whole plant. Do we need this for agriculture? That's the big push. This is for agriculture.

SCHEER: One minute.

LOWE: Thank you, Mr. President. I don't believe we need this to save agriculture. I believe we need this to set up the next industry. As Senator Wayne said with hemp, it is taking over the country, or something to that effect. I don't believe it was taking over the country, but it is the new and hot industry. There is another new hot industry that is also taking over the country and it is federally illegal. You can't make deposits in a federally-backed bank. And we're setting up the system for that. Thank you, Mr. President.

SCHEER: Thank you, Senator Lowe. The question before us is adoption of FA46. All those in favor please vote aye; all those opposed vote nay. Have all voted who wish to? Please record.

ASSISTANT CLERK: 10 ayes, 27 nays on Senator Lowe's floor amendment.

SCHEER: FA46 is not adopted. Mr. Clerk for a motion. Raise the call.

Floor Debate
April 15, 2019

ASSISTANT CLERK: Mr. President, Senator Lowe would move to recommit LB657 to committee.

SCHEER: Senator Lowe, you're welcome to open on AM988. Excuse me, MO63.

LOWE: Thank you, Mr. President. Strongly how I feel, this is. We are doing something that we shouldn't be doing. Our children will suffer. We're taking steps in a direction that we shouldn't go and I'm warning the members of this Legislature that that is the direction we are going at this point in time. We have before us today a very important bill. I commend Senator Wayne for bringing this bill. I don't like what it does, though. I do think there are other crops that can be planted to change what we do. With those crops we would have to change our combines also. They could not use the same heads as corn or soybean or wheat. But there are other crops that we can plant that we don't have to pass a law for. Senator Wayne, relax, I will pull this amendment. I just want to have extended debate. We-- I am worried, though. The THC found in this plant, as long as it is under the legal limits can be extracted and where does that product go then? Does it go to our kids? Does it go to our youth? Can it be stolen? Do we have that problem here in the state now that we are creating? Now it comes in from other states. Do we want to grow it here? I think not. The people in this state should not be hoodwinked by the name of hemp and that is what we're doing. People have rebutted that you don't smoke ditch weed. I read an article where it is the new hot thing that they're doing. You also probably wouldn't ingest dish soap, but for a while our youth was doing that. They will do it. They will experiment. That's what youth is all about, experimenting. Do we really want to give them another venue? Hundreds and thousands of acres of opportunity to experiment? Why would we do this? Why would we give our youth a chance to ruin their lives another way? We've already given them alcohol. We've already given them pharmaceutical drugs. Why would we give our youth another way? Isn't it easy enough to get those drugs already, and the alcohol? Think about the direction that we are heading. I don't like the direction that we are going and I think we all need to think about that before we cast a vote. With that, I'll withdraw my motion.

SCHEER: Thank you, Senator Lowe. Returning to floor discussion. Senator Friesen, you're recognized.

FRIESEN: Thank you, Mr. President. I wish everybody would be watching these amendments. That wasn't a bad amendment that we just voted down, he's just trying to improve the bill. It's a cell phone. People are not listening anymore. You know, he's trying to improve a bill, wasn't he, Senator Wayne? I'll yield the rest of my time to Senator Wayne.

SCHEER: Senator Wayne waives the additional time. Seeing no one left in the queue, Senator Halloran, you're welcome to close on AM988.

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

Floor Debate
April 15, 2019

HALLORAN: Thank you, Mr. Speaker, colleagues, Nebraskans. This has been a good dialogue. It's been a good debate. I would never challenge anyone's passion for their position, whether it be Senator Wayne's or Senator Lowe's, but this is a solid bill. There's a lot of synergy that went into it with Senator Wayne's staff, Department of Agriculture, Attorney General, State Patrol. There's a solid licensing in the bill. There's aspects in the bill that deal with every part of growing hemp in a way that we'll all be proud of as an alternative crop. So I encourage you to adopt AM988 and then to adopt LB657 as amended. Thank you.

SCHEER: Thank you, Senator Halloran. Colleagues, the question before us is the adoption of AM988 to LB657. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

ASSISTANT CLERK: 37 ayes, 4 nays on the adoption of the committee amendments.

SCHEER: AM988 is adopted. Seeing no one left in the queue, Senator Wayne, you're welcome to close on LB657.

WAYNE: Just wanted to say thank you for the conversation. We had some good debate and please vote green and see you guys tomorrow.

SCHEER: You heard the closing. The question before us is advancement of LB657 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: 37 ayes, 4 nays on the advancement of the bill.

SCHEER: LB657 is advanced to E&R Initial. Mr. Clerk for announcements.

ASSISTANT CLERK: Thank you, Mr. President. Your Committee on Enrollment and Review reports to Select File LB585, LB641, and LB663, some having E&R amendments. LR85 introduced by Senator McDonnell. That will be read and laid over. Amendments to be printed: Senator Crawford to LB273 and-- sorry, LB237 and LB237A. Amendments to be printed: Senator La Grone to LB470, and Senator Lathrop to LB227. LB571A introduced by Senator Walz. (Read LB571A by title for the first time.) Name adds: Senator Matt Hansen to LB657, and Senator Ben Hansen would withdraw his name from LB720.

Finally, Mr. President, a priority motion. Senator Gragert would move to adjourn the body until Tuesday, April 16, 2019, at 9:00 a.m.

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

Floor Debate
April 15, 2019

SCHEER: Colleagues, you've heard the motion. All those in favor say aye. All those opposed say nay. We are adjourned.