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May 15, 2019

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

CLERK: I have a quorum present, Mr. President. [RECORDER MALFUNCTION]-- have no corrections.

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

CLERK: Mr. President, Enrollment and Review reports LB299 as correctly engrossed. That's all that I have.

FOLEY: While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR108, LR109, and LR110. (Doctor of the day introduced.) We'll now proceed to the first item on the agenda, Select File, state claims bill, LB464. Mr. Clerk.

CLERK: Senator Slama.

FOLEY: Senator Slama for a motion.

SLAMA: Mr. President, I move that LB464 be advanced to E&R for engrossing.

FOLEY: Members, you heard the motion to advance LB464 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB464 advances. Per the agenda, Select File, 2019 committee priority bill. LB675, Mr. Clerk.

CLERK: Senator, LB675, I have E&R amendments first of all.

FOLEY: Senator Slama.

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

Floor Debate  
May 15, 2019

---

SLAMA: Mr. President, I move that the E&R amendments to LB675 be adopted.

FOLEY: You've heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk.

CLERK: Senator Groene would move to amend with AM1675.

FOLEY: Senator Groene, you're recognized to open on AM1675.

GROENE: Thank you, Mr. President. This is basically a catch by bill writing. I'll try to explain this simply. On February 27, we passed LB430 with an E clause, if you remember, which was asked by the Appropriations Committee to change the certification date for TEEOSA from March 1 to June 10 so that the adjustment to the TEEOSA formula that the Education Committee would be passed and then, which we haven't passed yet, the budget is being debated now so we changed it to June 10. But when LB675 was written, it was written to the old law. A new law became effective when LB430 was passed with an E clause on May-- March 1 with the signature of the Governor. All this amendment does is-- is adapt LB675 language to existing law, which is now LB430 that took place March 1. That's all this thing does. It doesn't change anything else of what the effect of LB675 is meant to do. So I would appreciate a green light on AM1675 and advance LB675 to Final Reading.

FOLEY: Thank you, Senator Groene. Is there any discussion of the amendment, AM1675? I see none. Senator Groene, you're recognized to close on the amendment. He waives closing. The question before the body is the adoption of AM1675 to LB675. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 37 ayes, 0 nays, Mr. President, on the adoption of Senator Groene's amendment.

FOLEY: The amendment is adopted. Mr. Clerk.

CLERK: Nothing further on the bill.

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB675 be advanced to E&R for engrossing.

FOLEY: Members, you heard the motion to advance LB675 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB675 advances. Moving on, on the agenda, General File, 2019 senator priority bills. LB720, Mr. Clerk.

CLERK: LB720 is a bill by Senator Kolterman and others. (Read title.) Introduced on January 23, referred to the Revenue Committee, advanced to General File. There are committee amendments pending, Mr. President.

FOLEY: Thank you, Mr. Clerk. Senator Kolterman, you're recognized to open on LB720.

KOLTERMAN: Good morning, Mr. President. Good morning, colleagues. I'm here today to ask for your support for my priority bill, LB720, the ImagiNE Nebraska Act. Before I talk about why I introduced this bill and made it my priority for 2019, I'd like to thank the many cosponsors that added their names to LB720. And for those that pulled their names off, I appreciate the dialogue that we're going to have and-- and understand your concerns and we'll talk about that throughout the day. When I first introduced LB720, many of the cosponsors didn't have an opportunity to pore over every line of the bill, but they added their names to this bill because they recognize the long success that our tax incentive programs have had here in Nebraska and they have seen firsthand the growth in jobs, investment in infrastructure in their districts. Whether your top issue is to reduce high property taxes for farmers and ranchers or to-- or reform school funding, I hope you recognize the fact that a thriving and growing business sector is as much a part of the solution as a-- a fix of property taxes. We've heard a number of times that jobs and wealth are more mobile than ever before and many businesses have the choice of where they will locate and want to grow. Our businesses are listening. They're listening loud and clear. I hope the message this Legislature sends is that we value your commitment to Nebraska and we value the jobs you're bringing to our communities, border to border, all throughout this state. LB720 is different than other economic development packages because we have actively sought the input of front-line economic development professionals to design this package that you see today. These are the

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Floor Debate  
May 15, 2019

---

people that our state depends on to represent us on recruiting visits, who participate in trade missions, who sit at the table with companies as they contemplate expansion projects and know exactly what they're looking for and when they make decisions and where to locate their jobs investment in their future. Incentives level the playing field, allowing Nebraska to win when it comes to project funding and location. The over-- the overall tax burden in Nebraska is too high for our citizens and the need to grow our state has never been more important. In order to find resources to provide this tax relief, we need a competitive business climate that helps grow and strengthen Nebraska's economy with new jobs and new investment. I'm really appreciative that the Revenue Committee, we had the opportunity to hear from dozens of Nebraska companies who came in this year to testify on other bills, home-grown companies like Kiewit, Tenaska, Firespring, and from my district a company called Klute Steel. Each company shared with us many of the reasons that they have chosen to stay in Nebraska. We've heard loud and clear how vital a competitive business climate and tax incentive packages have played in the growth of their companies and in their ability to retain and attract new employees. To date, the Nebraska Advantage Act and its predecessors has created over 850 business expansions resulting in over \$30 billion of capital investment in our state and 100,000 new jobs. Sixty-five percent of the projects that have been incentivized or under the Nebraska Advantage Act have been new attraction or expansion projects competing with other existing company locations out of the state of Nebraska. They had logical reasons to locate these expansions in other states, such as the proximity to their company headquarters, similar access to supply chains, or similar business environments. But they chose us. They chose the state of Nebraska. What was the deciding factor for these companies? It was our incentive programs. There's more that-- there is more that happens that is not and can't be measured in a fiscal note. When companies put roots in communities, exciting things happen. The private business community in Nebraska has a long and powerful track record of partnering with state and local governments to enact public-private partnerships that spur long-term economic growth. I think we need to take a minute to consider why it is critical for the Legislature to be laser focused on a legislative agenda based on competitiveness. We have a demographic challenge in our state. Nobody here is going to dispute that. But it could be-- it could lead to even more challenging times ahead. Many of our metro areas have seen population growth in the last eight years, but from 2010 to 2016, 63 of Nebraska's 93 counties experienced population loss. I want to repeat that: 63 of Nebraska's 93 counties have experienced pop-- population growth in six years, six-year period of time. We hear

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
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Floor Debate  
May 15, 2019

---

from employers in every corner of the state that they have trouble with recruiting and retaining employees to work in their organization. I've heard some-- someone mention that the chamber of commerce's number one, number two, and number three biggest concern is work force and work force development. I couldn't agree more. But work force isn't the only challenge Nebraska faces. And I agree that our property tax burden is too high. I hear that from my constituents as well and I've done everything in my power to make sure that we had a good discussion on property taxes. I helped vote that bill out of committee. With the Nebraska Advantage expiring next year, the time is now to create a new program that is responsive to the 2019 economy and beyond. It is critical that we send a strong message to the Nebraska-- that Nebraska is a great place to do business, to raise a family, and to live. In drafting this proposal, front-line economic development professionals and the-- and the chambers of commerce worked in collaboration with the Department of Economic Development, the Department of Revenue, the Department of Labor, and they came to a workable solution for an incentive program. This program is built not just for today but takes us into the future. The guiding principles of this work came from both a Standard Research Institute, SRI, study commissioned by DED in 2015, and the Center for Regional Economic Competitiveness, CREC, study conducted by the Legislature's Economic Development Task Force last fall. LB720 follows the recommendation of these reports and targets high-skill, high-wage jobs in industries with high capital investment [RECORDER MALFUNCTION]. The core principles of drafting-- the drafting group have been four things: simplicity, transparency, integrity, and competitiveness. Coupled with a focus on higher wages and a change in the administration of the program from the Department of Revenue to the Department of Economic Development, we've constructed what I believe is a solid foundation for the next generation of Nebraska incentives. From day one I said this bill is a work in progress. I've asked for input. I've listened to my colleagues in how to make it a better bill. Based on your feedback, we've included in the committee amendment the following provisions: an even more-- an even more robust annual review process where the director of DED, the Tax Commissioner will meet and review the approved credits, utilization trends and anomalies that have occurred throughout the year. This is in addition to the annual joint report and hearing from the DED and the DOR to the Legislature each year. We've heard a lot of feedback that the original draft needed to be more accessible to rural manufacturing so we modified the growth and expansion category to require the creation of only five full-time jobs instead of ten. One job in rural Nebraska is equal to a thousand jobs in Omaha, and so lowering this threshold truly

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Rough Draft

Floor Debate  
May 15, 2019

---

makes a program accessible statewide. To address concerns about discrimination, we've added a provision that companies must acknowledge that they have no policy that violates state or federal law on discrimination issues. To ensure we are incentivizing good jobs we have added a requirement the business acknowledge and prove they offer an ACA-compliant health insurance program to their employees. To-- to even further target the benefits of the program, we established a multiplier incentive for the projects located in extremely blight areas, which will be added to our, if Senator Wayne's bill passes, we will have an extremely blighted area. Finally, men-- many senators looked at LB605, Senator Lindstrom's bill to establish a tax credit for biochemicals, and felt it was valuable--

FOLEY: One minute.

KOLTERMAN: --and set Nebraska up for the next generation of ethanol-type development. LB605 has been amended into LB720. Finally, I would like to say that I've heard some comment about pushing consideration of this bill into next year or 2020. Let me share with you why I think that's a bad idea. We have economic developers who are working projects this summer and fall and entering into negotiations with companies. They will have to explain that Nebraska Advantage sunsets next year. There's no way to guarantee the Legislature will actually enact a new program prior to the program's expiration. How can Nebraska expect to stay in the game for these projects? Let's not push our front-line economic development professions in those-- into those situations. As my time is short on the mike, I will use my subsequent turns at the mike to further explain the details of the program. Thank you, colleagues, and I urge you to support LB720 and AM1614.

FOLEY: Thank you, Senator Kolterman. As the Clerk indicated, there are amendments from the Revenue Committee. Senator Linehan, as Chair of the committee, you're recognized to open on the committee amendment.

LINEHAN: Thank you, Mr. President. Good morning, colleagues. I'm going to give a brief overview of the committee amendment to LB720 and then I'm sure Senator Kolterman, as he just mentioned, will die into more of the specifics. We have had some discussion in the committee regarding what data will be used to determine the Nebraska 90-county average hourly wage and

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

the Nebraska statewide hourly wage. This is to ensure that we don't have a program that won't work in greater Nebraska. The amendment clarifies that we will use the data calculated by the office, the federal office of Labor Market Information. Secondly, the amendment clarifies what is a qualified business location under the act. For example, transportation is clarified to include both rail and truck transportation, and insurance services is changed to insurance carriers. Also, the amendment adds some additional categories under qualified business location, such as computer facilities management services, warehouse-- and warehouse and storage. The amendment adds some additional requirements for taxpayers, such as acknowledging in the application and in the agreement that the taxpayer does not violate any state or federal law against discrimination. Taxpayers are also required to offer full-time employees insurance coverage that complies with the Affordable Care Act. They also must pay a nonrefundable application fee of \$5,000. Additional requirements for the state include notifying any municipality in which the project location exists of the approval of the application and the execution of agreement, and notifying municipalities within 30 days after the refund is allowed or approved. The amendment modifies one of the levels for qualification from ten new employees and a million-dollar investment to five new employees and a million-dollar investment, again to help make sure that this is all over Nebraska. There is a 1 percent multiplier for wage and investment credits if the project is located in an area that has been designated as extremely blighted. Credits may also be used for taxpayer-sponsored childcare at the qualified location. A new company is created-- excuse me. A new committee is created to review the same data that is made available now to the Legislative Fiscal Office and the Nebraska Economic Forecasting Advisory Board regarding refunds and credits. The committee members are the Speaker of the Legislature, Chair of the Revenue Committee, Chair of Appropriations, and Chair of the Performance Audit Committee, also the Tax Commissioner, and the director of Economic Development which will look at the program each year. And finally, the provisions of LB605, introduced by Senator Lindstrom, are incorporated to create the Renewable Chemical Production Tax Credit Act. This new program would provide a refundable credit, if the business produced at least one million pounds of renewable chemicals in this state during the calendar year for which the tax credits are sought, to the businesses physically located in this state. Three, the business and expanded and expanded or located in this state on or after the effective date of this act. And finally, the Department of Economic Development is authorized to approve credits for at least \$3 million in calendar year '21 and '22, and \$6 million for calendar year '23 and beyond. That is my

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

overview of the amendment and I'm sure Senator Kolterman will have additional comments.  
Thank you, Mr. President.

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

CLERK: All right, Mr. President. Senator, if I may, some housekeeping. Senator Kolterman, you had filed, prior to the public hearing, AM1198. I think I have a note you wish to withdraw that amendment, Senator.

KOLTERMAN: Yes.

CLERK: Thank you. Then, Mr. President, the next amendment, I have a series of amendments to the committee amendment-- is AM1684. Senator Kolterman, I understand you would like to withdraw and offer, as a substitute, Senator Bolz's AM1795.

KOLTERMAN: Yes, that's correct.

FOLEY: Without objection, substitution is made.

CLERK: Senator Bolz, AM1795.

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

BOLZ: Thank you, Mr. President. And thank you, Senator Kolterman, for your hard work on LB720 and for the opportunity to talk about something that's very important to me. Senator Kolterman has been very patient with me and has had several conversations with me about LB720, and I do have some concerns. I have an amendment filed later around some of the policy provisions of our tax incentive program overall, including establishing fiscal guide rails and increasing job quality. But I do have the opportunity with AM1795 to talk about another piece that I think could be added to LB720 to improve this legislation and improve our vision for work force development and economic growth in the future and that is the Customized Job Training Act. One of the things that I think is pretty challenging in terms of our current set of



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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

circumstances related to economic growth is that, while we need to renew our tax incentive programs, we're also in a position where lack of a skilled work force is a top priority and one of the major barriers to growing our economy. And so the Customized Job Training Act gives us an opportunity to talk about work force development in the context of tax incentives. The purpose of the customized job training program is to ensure that Nebraska's work force is prepared to meet the challenges of tomorrow. It will ensure that jobs created through the customized job training program are quality jobs and support a strong Nebraska economy. It establishes parameters for the customized job training program which is already in existence but has never been codified in statute in terms of our expectations and in terms of the reporting so that we can prove our return on investment. So this bill establishes that jobs just be new jobs or result in a net increase in wages per employee. It says that the jobs must be trained for that must meet or exceed the Nebraska average annual wage. And it says that the job training must be provided by Community College System or accredited postsecondary education institution, or a qualified training provider if the training results in a nationally or state or locally recognized certificate, an examination or licensure, or recognized skill standards as defined by an industrial sector. Why is this so important? Why is it so important that we have a conversation about work force development in the context of tax incentives? Well, I passed out a-- well, I will pass out an article that was ran in the Omaha World-Herald earlier this year where business leaders and education leaders put it very plainly. The title of the article is "We have a work force crisis," and Bryan Slone with the Omaha Chamber referenced the crisis as a thousand-pound gorilla in terms of our economic growth. Numerous studies have identified work force needs as a top priority. The Chamber of Commerce identified work force needs as a top priority. The Economic Development Task Force identified work force shortages for workers whose skills align with economic demands as a top priority. The Nebraska Department of Economic Development commissioned a report entitled "Nebraska's Next Economy," which found that there's a shortage in skilled workers with an acute shortage in science, technology, engineering, and math. In 2020 we can expect that 71 percent of Nebraska's jobs will require postsecondary education but 9 percent of our population doesn't have a high school diploma and only 30-- 30.6 percent have a bachelor's degree or higher. Colleagues, we are falling short in terms of training skilled workers and that's one of the reasons that we are not seeing the economic growth that we would like to see. So I appreciate your consideration of AM1795, which is the customized job training program. It was introduced as LB527 and voted out of the Business and Labor Committee. Work

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

Floor Debate  
May 15, 2019

---

force development must be a part of our discussion around tax incentives. We must also have a conversation around putting fiscal guide rails in, establishing a high bar for the job expectations in terms of full-time job creation, minimum wages, and benefits. And we-- we need to keep an eye on our state budget. So, colleagues, I look forward to the conversation today on LB720, work force development, and how we can put the best possible package together for our economic growth. Thank you, Mr. President.

FOLEY: Thank you, Senator Bolz. Debate is now open on LB720, the Revenue Committee amendment, and the Bolz amendment to the committee amendment. Senator Lathrop.

LATHROP: Thank you, Mr. President. Colleagues, good morning. I stand in support of LB720, and maybe I should be clear. I stand in support of the idea that we need a business tax incentive program in this state. I'd like to say that these things are a dinosaur, that they've gone away and we don't need them to compete. We do. It's a fact of life. Other states are doing this. In order to keep up and to attract business and growth in this state, it's important. It also helps us broaden our tax base. I've also heard concerns about LB720. I hope today that we will have a substantive discussion about LB720, the importance of business tax incentives. And then let's have it, let's air the concerns people have for LB720 and let's allow Senator Kolterman an opportunity between General and Select to work on some of those things. This is really, really important to our state. I think it's important that we have a bill that works and that in order to do that I think we need to have the input of all the folks on the floor today and then afford Senator Kolterman an opportunity to accommodate the concerns he hears today. And with that, I would encourage your support of the amendments, the bill, and I would yield the balance of my time to Senator Kolterman.

FOLEY: Thank you, Senator Lathrop. Senator Kolterman, 3:30.

KOLTERMAN: Thank you very much. Thank you, Senator Lathrop. I appreciate your support. We have listened. We've listened loud and clear; tried to work with everybody that had concerns. We've listened to Senator Bolz, and this amendment that she brings, AM1795, is considered a friendly amendment. We support this amendment 100 percent. We had this amendment already in the bill it had not cleared Business and Labor yet. So because of the procedural aspect of that

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

Floor Debate  
May 15, 2019

---

and in-- in good faith with working with the Speaker, we weren't going to bring a bill to the floor that did not come out of a committee or an amendment. So it advanced out of Business and Labor. We're bringing it to the floor. We think it's important. We'd like to have you support it. But moving on-- and I've got a lot of things to say. I'll run out of time and I'll pick up where I left off. But for this time that I'm going to talk about, I'd like you to take out on page 2 of the-- of the program that calls-- says the Nebraska Advantage that I put in front of you, there's a chart that talks about the benefit schedules. And I'd like to explain to your how LB20-- or LB720 is structured. First, we're simplifying the process for the company to apply and significantly reducing the approval process and the administration by housing this program under the Department of Economic Development. While Economic Development will still be administer-- the program, the Department of Revenue will also continue to audit the program to make sure companies who have applied who have met the statutory requirements to qualify for incentives. So we're going to be working. The-- the lead on this will be the Department of Economic Development because they're the front-line people that work with these new companies. But at the same time, we understand that the Department of Economic Development can't do it all. So they're partnering with Department of Revenue and also the Department of Labor. And so this, that makes this even better. I'd like to discuss the program outline now. If you'd like to follow me, please go to that chart called the "Benefit Schedule." We're getting rid of the tiers established under the Nebraska Advantage Act and replacing them with five different categories: growth and expansion, quality jobs, quality job investment, mega project, and modernization.

FOLEY: One minute.

KOLTERMAN: To qualify for the growth and expansion category, which is the first line there, the qualifying company must invest at least \$1 million of capital and hire five new-- five new full-time jobs and they will each earn at least \$38,629. If a company meets these requirements, they will qualify for a 4 percent wage credit and a 4 percent income tax credit. And I'll-- I'll wait to explain the rest on my next time on the mike. But I'd like-- I think it's important we go through that and then ask questions of-- of what you have about those. Thank you.

FOLEY: Thank you, Senator Kolterman. Senator Friesen.

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

Floor Debate  
May 15, 2019

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FRIESEN: Thank you, Mr. President. I'm going to stand in opposition to LB720, unless some major changes are made. To me, I've-- I've been-- served for a time on Economic Development Committee this last summer. We talked about a lot of options. One of the things that constantly came up is, how many of these jobs would have been created without an incentive program? And when you look at how much money we have-- how much revenue we have forgone, I mean we're talking right now we're going to be in the area about \$1.5 billion as the revenue we have given up since LB775 was first put in place. And we keep talking about growing our way out of this problem we have of lower revenue. Historically, our revenue has been growing at 4.7 percent. That's a long-term revenue growth projection. So when you look at it from very simple terms, I look at our revenue growth today and it's closer to 3 percent, and yet we have spent a billion and a half dollars in economic development trying to grow our way out of this lower revenue that we have. It doesn't seem like it's working. We've attracted a handful of companies. We've incentivized a lot of minimum wage jobs. And in this bill, there's still incentives for full-time equivalents, which are part-time jobs, which are not going to have benefits of health insurance. When you average the wages, you're still taking wages that start below a million dollars and average in the rest of them. So you can have a handful of employees making \$999,000 and they're going to be averaged in to create your average wage created in this program. This is a rewrite of the Advantage Act. We can do better. We have 60,000, 50,000 job openings in the state. We don't have people to fill them. And we're going to spend more money trying to create more jobs that we can't fill. I like the work force development. I think that's a good thing. I think that's something we need to focus on. We need to focus on the employees. We need to focus on job training. Our unemployment is the lowest it's been in years. Supposedly we would be at full employment, you could call it. And for some reason we want to incentivize the creation of new jobs. In rural Nebraska, jobs are created one and two at a time. The majority of jobs created in the state I think come from small business. This still doesn't address any of those. There's numerous people in rural Nebraska that have done million-dollar investments and they'll hire one or two or three people. They don't qualify for any of this. Those are the ones we should be looking at helping. They're the start-up companies that start in Nebraska. They're born here and they want to stay here. If we're trying to attract companies from out of state, we don't have the revenue to buy them to come here. So look at the long-term projections. Our-- our revenue again, 4.7 historical growth. We spent a billion and a half dollars on economic development and today our revenue is trending closer to the 3 percent, 3.5. It should be growing at 6 percent. Where's

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

Floor Debate  
May 15, 2019

---

our return on investment? You look at the Performance Audit Committee's report. That's a glaring example we spent more money than it brought in. And we can talk about the-- the audit was not complete, doesn't take into account for all the other jobs created. Yes, it will never be complete. It will never be perfect. But if we don't do a better job of analyzing what we're doing we'll never learn from our mistakes.

FOLEY: One minute.

FRIESEN: And there were a lot of mistakes made in the Advantage Act and yet it continued on for years. And it wasn't doing what was intended. And we forgave a lot of revenue, a lot of sales tax revenue, property taxes, income taxes, payroll taxes. There's still outstanding credits that are going to be used and there's going to be three programs running at once. And if we think we're going to have revenue to do other programs with or to increase provider rates or those type of things down the road, you're sadly mistaken, because we're going to keep our revenue growth at that 3 percent or less, and hopefully inflation won't kick in to where our costs increase more than that. So I think there needs to be some spending caps in place. There need to be more. It needs to be full-time jobs instead of full-time equivalent. And the averages where they use a million-dollar payroll for part of the average should be moved lower.

FOLEY: It's time, Senator.

FRIESEN: Thank you, Mr. President.

FOLEY: Thank you, Senator Friesen. Senator Kolterman.

KOLTERMAN: Thank you, Mr. President. I'd like to talk to the issues that Senator Friesen just brought up. If you look in the packet of information I gave you, there's also on the last page of what's called the ImagiNE Nebraska, let's meet this head on about full-time equivalents and full-time jobs. The Department of Economic Development has made it very clear when you look at this chart before we go farther in that, that these are-- it says full-time equivalents, but in their-- in their-- in their application, they're looking at that as full-time jobs. The full-time equivalent issue is addressed very clearly on-- on the, "Why does LB720 allow pooling of FTEs? It makes it

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
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Floor Debate  
May 15, 2019

---

very clear that number one, they have to have five new jobs as a minimum and we're going to have an amendment here shortly from Speaker Scheer that's going to address some of Senator Friesen's issues about the local, smaller towns. Then the other thing is, as we-- as we follow through, there's 5, 20, 30, and 250 types-- 250-employee types of jobs. So there's four categories where full-time, full-time jobs are going to be taking place. As far as the dollars that-- that have been spent, Director Rippe has done some research on-- on that and you should have a letter in there talking-- in your packet talking about that. And if you go to page 6 of 9 on Senator or Director Rippe's, you'll see some different graphs about what has happened in the state of Nebraska, where 5 of 9 really deals with the variability in General Funds and the incentives. So if you look at page 5 of 9, you're going to see that from 1989 to 2018, towards the bottom of the page, you're going to see that we spent pretty minimal amounts of money, pretty much so, less than 3 percent of our annual budget. But you'll also see the General Fund net receipts that have come in those years and we happen to believe that some of that was-- was because of the jobs that have been created. We're going to talk about fiscal audit, Legislative Audit. They're going to ask some questions and I think we'll get to the issues, some of the issues that have been concerns under LB775 and the Advantage Act. But I'd-- I-- just have to disagree with what Senator Friesen has said. It has worked. I'm going to move though on now and talk about the second item there, the 20 new. So to qualify for quality jobs, that second category, a company has to hire 20 new employees with an approximate salary of \$44,824 for each new employee. We've raised that considerably over LB775 and the Advantage Act. We listened loud and clear that we weren't creating enough high-paying jobs like it was intended to do. So if a company meets these requirements, they will qualify for a wage credit between 5 to 12 percent, depending on the wage of the new employees. And then the third category there, to qualify for the quality jobs investment category, qualifying company must, must hire 30 new employees with an approximate salary of \$44,824 for each employee. And they have to invest \$5 million in our state. If a company meets these requirements, they will qualify for the wage credit of 5 to 12 percent, depending on the wage of the new employees, and a sales refund exemption, a 7 percent income tax credit, and a personal property tax exemption for agricultural processing machinery--

FOLEY: One minute.

Transcript Prepared By the Clerk of the Legislature  
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Rough Draft

Floor Debate  
May 15, 2019

---

KOLTERMAN: --and datacenter equipment. And finally, when we start looking at the major product-- projects category, a qualifying company must hire 250 new full-time equivalents with a salary of 100 percent of the statewide average, which is \$67,236 per employee. And they've got to invest \$250 million in our state. If the company meets these requirements, they are going to qualify for wage credits between 5 and 12 percent, depending on the wage of the new employees, and a sales tax refund exemption, 7 percent income tax credit, personal property tax exemption for all personal property and real property tax, income tax credit refund. We're going to be taking that out, which is part of Senator Scheer's amendment. We're going to be using that savings to do some other things, which I'll let him explain when he gets to the mike. I'll wait till I talk to the modernization category when my next time comes up. Thank you very much.

FOLEY: Thank you, Senator Kolterman. Senator Wishart.

WISHART: Thank you, Mr. President. I rise in support of AM1795, AM1614, and the underlying bill. I ran for office, first and foremost, to put in place policy that grows our economy. I believe LB720 is a critical part of policy decisions that we make here in terms of growing that economy. With that, I yield my time to Senator Kolterman.

FOLEY: Thank you, Senator Wishart. Senator Kolterman, 4:30.

KOLTERMAN: Thank you, Senator Wishart. I appreciate that. And I appreciate your support on the amendments. And I know you've got an amendment we're going to talk about yet this morning. It's an amendment that you brought to us and we thought it was a-- also nice amendment which talks to the fact that we are listening. So I appreciate that. Under the modernization category that we have, that's the last category that you see there, this is to get large companies, qualifying companies that were willing to invest \$50 million in our state and pay all their workers at a qualified location 150 percent of the statewide average wage. If a company meets these requirements, they will qualify for a sales tax refund exemption, personal property tax exemption for agricultural processing machinery and datacenter equipment. Now a company is not going to receive any of these benefits whether you're in any of these categories until you reach the criteria set forth in the bill. And if a company fails to maintain these levels, like if they don't have five full-time employees and they don't have 20 full-time employees,

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

during the performance period all or a portion of the incentives will be recaptured and disallowed. This program, this is probably the most important aspect of this program. This program is a performance-based program. There will not be tax credits unless a company invests heavily in the state and maintains those investments. Finally, we're creating a discretionary revolving loan fund managed by the Department of Economic Development to accelerate benefits to high-impact projects for infrastructure and job training programs. The loan fund would then be replenished from the company's credits that they earn. We allowing for businesses to access these credits in the form of job training or talent recruitment funds to offset childcare expenses which enhance the incentives for higher wage jobs. These are all things that we've done to make changes to the plan. We think that this plan will do us-- do the state of Nebraska a lot of good over the next ten years. And-- and we're going to talk some more about where we're headed with this program and some more changes that are coming about. But I'm anxious to hear the concerns and the questions. So with that, I'll yield the rest of my time and take questions as they come up.

FOLEY: Thank you, Senator Kolterman. Senator Briese, you're recognized.

BRIESE: Thank you, Mr. President. Good morning, colleagues. I, first of all, I want to thank Senator Kolterman for his hard work in putting together this package called LB720. And it really is an improvement over what we currently have. It should do a better job of fulfilling the goals of any program like this, and that is incentivizing business growth and development, incentivizing employment. And as with any incentive program, the question really is whether we can be sure it's a win for the average taxpayer. In other words, does the incentive actually cause and create sufficient an investment and employment to outweigh the forgone revenue? And I believe the greater transparency and accountability created by LB720 can help ensure that this program can be a win for our state. I'm sure we're going to hear a lot more about LB720 today and I look forward to hearing the discussion. But my support of LB720 is conditional on one thing and that is passing substantial and significant property tax relief for hardworking Nebraskans. There's no way I'm going to support a business incentive package without first or simultaneously passing property tax relief. Several publications have applauded the business climate in Nebraska. We're already known for being a business friendly state. But what else are we known for? We're known for having some of the highest property taxes in the country. Farm Bureau tells us we have the



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

Floor Debate  
May 15, 2019

---

third highest ag taxes in the country. Another publication suggests we have the fourth highest residential property taxes in the country. Property taxes are forcing red ink on our ag producers, high property taxes are forcing young couples out of the housing market. I submit to you that our overreliance on property taxes are impeding economic growth in this state more than any lack of business incentive will ever do. And I heard that from countless constituents last summer across my district, ag producers, main street retailers. And yet we're talking about a business incentive package that's gonna offer, you know, upwards of \$150 million a year to business growth and promotion while a bill to address the property tax crisis in a responsible revenue-neutral manner sits on the sidelines. I would propose that this become a package deal: business incentives coupled with property tax relief. And for me, it's gonna have to be a package deal. If we're gonna pass a bill for out-of-state companies and others, we're gonna have to pass a bill to yield meaningful, substantial property tax relief for hardworking Nebraska property taxpayers. I submit the property taxpayers in Nebraska need relief a whole lot worse than some of these businesses. And I'm willing to make the budget part of that deal, you know, otherwise we could be for a slug fest yet on it. We could revisit university funding. We could revisit provider rates. You know, last night demonstrated the nature of that and where that could go. So we've got LB289, we've got LB720, maybe a couple others and possibly the budget. And I think we need to be thinking in terms of a package. And are these bills perfect? No. Can we all find things in these bills that we don't like? Yes, certainly. But sometimes to do what's right for our state, accomplish what needs to be done, sometimes you just have to hold your nose. Based on the debate last week, adjustments have been made to LB289, which can address some of the concerns brought forth. And I'm sure some suggestions for improvement to LB720 are gonna be brought forth today and I-- I'm certain Senator Kolterman will be amenable to some of those changes. And the budget, it's always fluid. And we have to remember we're not married to any of this. You know, we can pass it and we can always come back and tweak, amend all or anything going forward, and that's a great option to always have.

FOLEY: One minute.

BRIESE: So-- thank you, Mr. President. So for me, my support of LB720 and possibly the budget itself hinges on meaningful, substantial property tax relief. And again, I'd like to thank Senator Kolterman for his leadership on this issue. And I don't want to make today's debate

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

Floor Debate  
May 15, 2019

---

about property tax relief. It really needs to be about LB720 and how it can be made better. But without property tax relief, business incentives need to stall. Nebraskans need property tax relief a whole lot worse than businesses need this incentive package. Thank you, Mr. President.

FOLEY: Thank you, Senator Briese. Senator Slama.

SLAMA: Thank you, Mr. President. And just to echo what Senator Briese so eloquently said just now on the mike, I too have some heartburn will LB720 on two fronts, first in the fact we have not yet solved the property tax crisis in our state. And I think that absolutely our property taxpayers need relief before our businesses do at this point. The crisis is much more acute for our property taxpayers than it is for our businesses. Also as a fiscal conservative, I have to echo what Senator Lathrop said. I wish we didn't have to pass an incentives program like this. As a fiscal conservative, I think dumping money into programs like this is-- you don't have to do it. But that's the climate we're in. It's the competitive nature across the states that every state has one of these programs, so we need to have one. And I think that Senator Kolterman has done an excellent job of improving upon issues in the Nebraska Advantage Act. I would like to yield him the rest of my time to further explain how LB720 improves upon issues that we saw in the Nebraska Advantage Act.

FOLEY: Thank you, Senator Slama. Senator Kolterman, 3:30.

KOLTERMAN: Thank you, Senator Slama, I appreciate that for yielding your time. Unlike LB775, the Nebraska Advantage Act, in this bill we're prioritizing good paying jobs. If you look at the benefit schedule again, you'll see that the lowest wage job that would qualify for incentives is 100 percent of the 90-county average or approximately \$38,500, plus health insurance benefits. That falls under the growth and expansion category, that first category. If a company applies for either the quality jobs category or the quality jobs investment, the qualifying minimum wage for every job created increases the statewide average. If the company applies for the mega project category, the qualified minimum wage for each job is 150 percent of the statewide average. I want to be clear, LB720 does not allow wage pooling for these categories, so a company is not able to pay 1 employee \$500,000, and their other 19 employees \$20,857. Doesn't work that way. The only category that does allow for wage pooling is a modernization

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

Floor Debate  
May 15, 2019

---

category. And since we're not requiring new jobs to be created, we're allowing the total wage of qualified location to equal 150 percent of the statewide average. So in calculating the minimum qualifying wage for new jobs created, we're not allowing companies to include a benefit package or health insurance to boost the wage number. Under AM1614, we're requiring that each qualifying job under imagined be offered health insurance as well as thus increasing the total compensation provided to each new qualifying employee. I want to state that again. All qualifying jobs under this program will be offered health insurance. And typically, in my experience, having sold health insurance to groups over the years, groups have to pay a minimum of 50 percent of the individual. Most of the companies that we're seeing that are coming to our state are paying a very high percentage of the benefits under their-- under their company plans. In addition to the wages that they're creating. So that doesn't concern me and-- and the-- and the Department of Economic Development says they can't remember the last time a company came and didn't offer full-time jobs and an employee benefit package that was very commendable.

FOLEY: One minute.

KOLTERMAN: So with that, I would try to entertain any more questions that come my way. Thank you.

FOLEY: Thank you, Senator Kolterman. Senator Williams.

WILLIAMS: Thank you, Mr. President. Good morning, colleagues. And I rise certainly in support of Senator Bolz's work force development amendment, AM1795, the committee amendment, and the underlying bill, LB720. We are the body that is in charge of policy making for the state. We continue some policies, we update policies, and we make things better for the environment that we live in. And it is absolutely imperative that in that process we grow our state. And to grow our state, we have to be open for business. One of the concerns that I have right now is what the sunset, the potential sunset is out there that we are looking at. If there's anything that businesses want, it is certainty: knowing what their future is. You can't make decisions when you don't know what's going to be the potential benefits or lack of benefits that are out there. And that's the situation that we clearly have placed ourselves in right now. Doing

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

nothing this year is not an alternative in the business incentive world. Those, some would argue that, well, we've got another year here, that we could-- we could wait because of the-- the sunset out there. Companies already that are being recruited to our state are asking those kind of questions. This policy of offering incentives started back in 1987, as you've heard from Senator Kolterman and his work on this, with LB775, followed by Nebraska Advantage. And many times during that period we've had the-- the opportunity to see how well those have worked. We have a Performance Audit survey that we have all seen that tells a story that's only part of the story. It doesn't show all the of the benefits that have been received, all the spin-off benefits for our state for the cost that we've had. And it also, in my judgment, highly overestimates the amount of credits that will end up being used. But when you look at 1987, and here we are in 2019, the business community has changed. The types of businesses that we are trying to entice to come to our state have changed, and the update of LB720 puts us in line with our competitors in other states. And, yes, we have high taxes, but we have to continue finding ways to grow our state. Each one of us sits here with priorities. And I've heard priorities listing from property tax to income tax to prison overcrowding to LB720 to the budget. Every one of us deals with those priorities. And I would suggest to say that those priorities are mutually exclusive is disingenuous. We can accomplish more than one thing in this body, and we should accomplish more than one thing. The projection of the cost of LB720 is in line with what we've already been spending in our budget on incentives, so you can certainly argue that it is not increasing any property tax burden. Making policy and looking forward is not easy, and we don't make decisions because they are easy, and we don't make them because they are popular. We make decisions because they're right, and LB720 is right.

FOLEY: One minute.

WILLIAMS: And thinking about those of us that live outside of Lincoln and Omaha, if you look over a period of time at Nebraska Advantage, 43 percent of the agreements under Nebraska Advantage are outside of Lincoln and Omaha. Those are areas that benefit the rest of the state. And 26 percent of the products-- or the projects, excuse me, deal with value-added agriculture. Every one of those value-added agriculture facilities has helped agriculture in our state and helped the very people that we're trying to give relief to with property taxes. Companies like

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

Floor Debate  
May 15, 2019

---

ADM, Syngenta, Pioneer, Case IH, Central Valley Ag, multiple ethanol facilities, Lindsay, Midwest Labs, Monsanto,—

FOLEY: That's time, Senator.

WILLIAMS: --Tyson, Cargill.

FOLEY: That's time, Senator.

WILLIAMS: Thank you, Mr. President.

FOLEY: Thank you, Senator Williams. Senator Lindstrom.

LINDSTROM: Thank you, Mr. President. I stand in support of LB720 and underlying amendments. And what Senator Williams ties into a little bit of what I was going to talk about with regards to my portion of the amendment, LB605, dealing with renewable chemicals. And so we heard that bill back in January, and this really comes down to kind of the next generation of ethanol. So we have 24 ethanol plants in the state of Nebraska. This would be the next generation of an offshoot or other businesses that can grow around those ethanol plants. And so, like Senator Williams alluded to, we have companies like ADM, one of the companies in Blair which utilizes corn-based products to algae to feed omega-3s to feed an additive to salmon is one, one of the companies that is a part of this. But just the-- the specifics of the bill deals with the poundage that is produced by these companies, and so it's 7.5 cents per pound. In 2021, this is a \$3 million program which goes up to \$6 million, and there's a cap for individual companies that can receive \$1.5 million. So just to give you the parameters of what LB605, the underlying amendment, does with regards to that. There are states around us that are committing dollars to these projects as well in Minnesota and Iowa, so this gives us a competitive edge when it comes to some of these companies growing, in particular ag sector. And LB720, what we try to do is look at companies, not only in Omaha, Lincoln, but-- but the-- the greater part of the state so companies across the state of Nebraska utilize these incentives. But turning to LB720, the last couple years I've sat on Performance Audit, I've sat on the Economic Development Task Force, and have gained a lot of knowledge and insight as to what we have done right and what we've

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

Floor Debate  
May 15, 2019

---

done wrong. And I think LB720 accomplishes a lot of things off of what we've-- the changes that need to-- need to happen, in particular some of the up-front provisions and giving companies a little bit more predictability and stability in our program. And that's really what this comes down to, is creating predictability and stability. A lot of these companies that are-- are growing can grow anywhere. Business this day and age is very mobile, and when they start narrowing down certain states without an incentive program, Nebraska gets crossed off the list pretty quick. And so with the-- with the time clicking and with the sunset next year, it is very important that we do pass this bill this year. And I've heard a lot of folks rail against and hammer on incentive programs, saying it doesn't work. I can tell you, and I've seen firsthand, that it does work. With some of the companies that I've been around in Omaha, and one in particular, I won't name the name, but they started with 3 employees, started to grow 12 years ago, and this month, I believe, they will have hired their 450th employee in 12 years. They grow at 50 percent every year single year. And the median age is around 27, 28. As we talk about millennials, the out-migration, these are companies that utilize, in this case, Nebraska Advantage Act and would utilize Imagine Nebraska that are geared towards what we are trying to do: keep people here. And I think Senator Wayne alluded to this yesterday that we have a net loss in the state of Nebraska. We have about 1.9 million people. Without some of the immigration in places like Schuyler, Lexington, we would be at a-- at a loss. So these are companies that, again, are-- are very mobile. This particular company could operate anywhere in-- in the country, really anywhere in the world, and 99 percent of their clients and customers are outside of Nebraska. So as we look at companies that, one, we're incentivizing, that are getting most of their revenue outside of the state of Nebraska, these are the-- these are the companies that we want to keep and maintain.

FOLEY: One minute.

LINDSTROM: And this is what LB720 does. Going back to the property tax issue, I understand that people are frustrated with that. I am too. But I don't think that you need to have one without the other. And if we're not growing our state, we're not going to have very much property tax relief. I mean, fact of the matter is, you grow the base and you can-- you can lower the rate, and we haven't been doing that over the last couple years. And there's a number of reasons why, but LB720 is the next generation of what we need to do to make sure Nebraska is competitive. It will be talked about a lot today that in a perfect world, when we need it, could we structure our tax

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

Floor Debate  
May 15, 2019

---

policy better? Be more competitive with maybe a flat income and corporate tax? Yes, but we aren't there yet. So LB720 remedies a lot of the things that we need to do and takes care of growing business, not only in the eastern part but the western part of Nebraska. So I urge the body to support the underlying amendments and amendments that will be coming and vote green on LB720. Thank you, Mr. President.

FOLEY: Thank you, Senator Lindstrom. Senator Moser.

MOSER: Thank you, Mr. President. Senator Stinner, would you respond to a question or two, please?

FOLEY: Senator Stinner, would you yield, please?

STINNER: Yes, I will.

MOSER: Senator Stinner, we were just discussing this a little bit before. What are our obligations under the current incentive plans that we have in force now?

STINNER: Under LB775, I do not have a number on LB775. That actually goes off the books, ceases in two years. The Nebraska Advantage Act could go up to at least 20 years out. I think the last I checked, it was about \$800 million of liabilities that will work its way off our books in a systematic fashion.

MOSER: So you're saying it could be \$40 million a year?

STINNER: It could be.

MOSER: And then what do you see as our liability under this current bill?

STINNER: Well, the hopes are that this, obviously, as the Nebraska Advantage Act ramps off and LB775 ramps off, if you looked at the fiscal note, it's about \$100, \$150 million that we are investing every year in the Nebraska economy through the incentive program.

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

Floor Debate  
May 15, 2019

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MOSER: OK. Thank you very much. I think that illustrates my position on this bill. I think we need some kind of an incentive plan, but we've-- we're already committed to \$800 million, and this is going to add to what we owe, and this could be 150. We could have 40 million a year under the obligation, under the current plan that was passed some years ago. This kind of reminds me of the bonding discussion that we, from time to time, have in Nebraska when we talk about building roads and construction. We don't want to obligate future Legislatures to pay bills that are not under their control, that bonding pushes the can down the road and then those things come back to bite you when you don't have the money or you don't want to spend the money or it may not be your priority to spend the money on those things if you made that decision. So I think as we move LB720 forward, we need some kind of a plan, but I think we need to factor in what the previous plans are going to cost, what those obligations are, and then what we're willing to spend now. And when you look at \$150 million a year, that's \$75 per capita. Every citizen in Nebraska is spending \$75 toward economic development. And then you look at the obligation on the previous incentive plan, and it's 80 million. That's 40 per person. I think when you divide that out I think that puts that into perspective that we need to make sure we're getting the very most for what we're spending. Thank you very much.

FOLEY: Thank you, Senator Moser. Senator Groene.

GROENE: Thank you, Mr. President. Sometime at the end of the day or the end of session, I hope to be able to support LB720 in some form. That's the way the game's played. If you want to grow a state, I guess, or a community. But I have some concerns about it in its present form, and I've told Senator Kolterman that. I handed out a flier to you guys with a headline: Property taxes pay the way. I got to apologize taxpayers of Nebraska since I was elected four-- five years ago, the first time, and along with the Governor and a few other elected officials, on promises of getting property tax fixed, property taxes have gone up 17.25 percent. Individual income tax is 14.5 percent in those four-- first four years we served. State sales tax is only 5.1 percent. Corporate income tax is only 2.3 percent. A lot of that could be attributed to the Advantage Act, I'm sure. Ten years: Property tax has gone up 55-- 53.5; individual income tax at 36.8; sales tax is at 21.2; and corporate income tax is 34.7. We are debating a bill to give more tax relief to the bottom two that hasn't grown over the last ten years or even the four years under our present Governor and some of the senators who is got elected back then. Why? Why aren't we



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

Floor Debate  
May 15, 2019

---

addressing the property tax? LB289 did. Are we going to get 33 votes to bring it back to address what everybody who banged on doors was told-- property taxes. They weren't told your economic incentives. They weren't told you corporate income taxes. They weren't told you income tax unless you knocked on the door of a very high-income individual. They told you about property taxes. But today we are told this is the most critical thing we have to do. I dispute-- I don't dispute Senator Williams' 43 percent out rural. Yeah. Some somebody had 17 branches and they listed all 17 in North Platte and Scottsbluff and they hired 40 people and they all went to north Omaha, in their main office. But they listed all of their branches and then they-- then you take those branches and say, well, 43 percent of the projects went there. I will guarantee you, not even close to 43 percent of the total tax abatement went out to rural Nebraska. If it's 10 or 15 percent I would be amazed of the \$80 or \$90 million we took out last year. Follow the dollars. Numbers can be twisted. Senator Williams is absolutely right with his 43 percent number, but it isn't dollars. The Advantage Act has grown, not in Nebraska but Omaha and Lincoln. They've done well. They're booming, growing. Their tax base is moving. They're building new homes. It's been great for them. It has not been great for rural Nebraska. We have a depopulation problem. Main streets are being boarded up. Ag is in trouble and we won't give them even property tax relief. Oh, by the way, if somebody tells you, well, we gave-- the Governor gave \$16 million more to the Property Tax Credit Fund, if you take that off the property taxes in the last four years, it only drops it to 15.6 percent increase. Whippy wow! It's still the number one increase in taxes. We got a problem with property taxes, folks. Very low on employment, work force development, people don't want to live here. People who are self-sufficient, who have been raised to take care of themselves, worked hard to get an education, they're going to live somewhere where they don't have to pay high taxes--

FOLEY: One minute.

GROENE: --because they don't need the government services because they have personal responsibility and they take care of themselves. They don't want to live here. But agriculture is stuck here because that's where the land is. I'm getting my-- my property tax anger voice up too high. I apologize. But quit ignoring the real problem in this state. It's property taxes. It's why the retirees that can afford to move out. You left side of the aisle people who are worried about poor people, when they retire they can't afford to move. They're stuck with the high property taxes.

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

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They're here. The wealthy move when they retire. Lower middle class people own homes. They have a dream, too, to own a home, and they can't afford the property taxes on them. This isn't about agriculture. This about every property taxpayer in the state of Nebraska. LB289 needs to come back--

FOLEY: That's time, Senator.

GROENE: --and we need--

FOLEY: That's time.

GROENE: --to have a vote on it.

FOLEY: Thank you, Senator Groene. (Visitors introduced.) Continuing discussion on the bill, Senator La Grone.

La GRONE: Thank you, Mr. President. I rise in support of LB720, AM1614, and LB1795. I think it's very important to have a well-functioning incentives program to stay competitive with our surrounding states in terms of business climate. And I also think this bill goes a long ways towards fixing some of the problems that we've had with transparency in the Advantage Act, which I think are valid concerns. But to talk more about exactly how it fixes it and why this is a good idea, I'll yield the remainder of my time to Senator Kolterman.

FOLEY: Thank you, Senator La Grone. Senator Kolterman, 4:30.

KOLTERMAN: Thank you very much, Senator La Grone. Thank you, Mr. President. Senator Moser, I-- I don't know if you're still here. I-- I do want to address your concerns about the fiscal note. We've taken a hard look at that, and the reality is LB775 is scheduled to sunset in two years, so LB775 will go away and that-- that will be the end of that. And I believe that we-- we've factored in what we think are the liabilities of that yet going forward. But if you take a look at the fiscal note, and we're not a trying to hide anything in this fiscal note, you'll see that it-- it's a pretty-- it's a pretty sizable amount. But I-- but what I want to put your attention to is on

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

Floor Debate  
May 15, 2019

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the second page of the fiscal note. It shows you the revenue and-- and the General Fund costs that are associated with it, and it goes from nothing at the early stages, \$4 million next year, and it ramps itself up to \$197 million over a ten-year period for the final year. But the reality is, if we average that out over a ten-year period, we're talking about approximately \$106 million a year. Granted, we aren't going to have a lot of expenditure the first few years, but we do take into account the fact that we do know LB775 and the Advantage Act is going to still be there. So even if we took the \$106 the first year, \$106 million, and Senator Stinner said that we're paying about \$40 million a year, we believe that this will allow us to control the costs. And when-- when Senator McCollister gets an opportunity to talk, I'm going to let him talk about an issue that he brought to us as to how we're going to control the costs associated with this program. It's-- it is substantially changed from the previous programs. We're-- we're trying to be more accountable, more fiscally responsible, and we'll talk about as we go forward. Thank you very much.

FOLEY: Thank you, Senator Kolterman. Senator Cavanaugh, you're recognized.

CAVANAUGH: Thank you, Mr. Speaker. This is a-- or, I'm sorry, Mr. Lieutenant Governor. This is a very complicated bill, and I am interested in learning more about everyone's amendments. As it currently stands, I am not in support of this bill. I agree with Senator Groene that we need to be looking at our budget and what we're funding, and I don't think that we're in a place right now to offer this robust of tax incentives. But I would like to hear more from Senator Bolz, so I will yield her the remainder of my time. Thank you.

FOLEY: Thank you, Senator Cavanaugh. Senator Bolz, 4:20.

BOLZ: Thank you, Mr. President. And thank you, Senator Cavanaugh. I-- I want to rise and say just a couple of things because I think that this is an important discussion and dialogue, and as we work through General File I think it gives us opportunities to see ways in this which LB720 and our strategy for tax incentives and economic growth maybe could improve. So the first thing I want to say is I hope you all still remain in support of AM1795. I do think defining the customized job training program is really important, and that it is part of the conversation about work force development. But I would point out that this-- that even when we amend AM1795 into LB720, we don't currently have funding for the customized job training program. It has been

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

a successful program in the past to help incentivize businesses to grow, to change, to come to the state and have those last dollars to train the work force that they need to match up the skill sets with the industries that we're incentivizing. But we haven't been able to fund that through the Appropriations Committee for several years, and it is-- it is basically spent out. So we need to not only establish best practices, work force development policy. We also need to fund it. And in addition to the customized job training program, there are significant other ideas that deserve our attention in terms of funding work force development needs. For example, currently we only fund 36.5 percent of the demand for the Nebraska Opportunity Grant, which is our low-income scholarship program for students pursuing higher education. If we were to fully fund that we would need an additional \$30 million in our budget. There are a number of other great ideas out there, including Senator Stinner's H3 jobs bill, which is high demand, high skill, high wage jobs, and his bill would have added additional resources to attract and retain talent for those H3 jobs. I have a bill in the Education Committee that would have established the ACE Tech scholarship program which would help young people who pursue dual credit in high school go on to a community college and get those technical skills to really contribute to the economy. So the first point I want to make is that we-- we need to continue to have this conversation about work force development in the context of our tax incentive programs, and we need additional resources to move us, to move the dial, and that's-- that is-- that is essential and important to growing our economy. Related, that is why-- that is one of the reasons why I'm concerned about the overall cost of LB720 and how that fits into our budget, because when we're talking about economic growth we're also talking about higher education. We're also talking about job training. We're also talking about funding things like child-care assistance. And it's been some austere years on the budget committee over the past few years. And so a later amendment that I have, AM1765, would place caps on the-- on the amount that we are funding our tax incentive programs. Why is that important? Let me give you some statistics.

FOLEY: One minute.

BOLZ: The 2017 tax incentive report illustrates the unpredictable fiscal impact of these business incentive programs on the state budget from year to year. The total estimated tax reductions under LB775 and Nebraska Advantage were \$153 million in 2015-- colleagues, listen, up to \$270 million in 2016, and then fell back to \$162 million in 2017. And those projections include

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Transcriber's Office  
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Floor Debate  
May 15, 2019

---

only General Fund impacts and don't consider property tax exemptions or the loss of local option sales tax. That volatility in our funding streams is difficult to manage and can put pressure on other important priorities in the budget. Colleagues, I agree that we need a tax incentive program. I think we should fund it,. But I think just like any other aspect of our budget, we should establish a priority and a parameter for what that investment look like-- looks like and means. It can be very generous, but we need those fiscal guide rails.

FOLEY: That's time, Senator.

BOLZ: Thank you, Mr. President.

FOLEY: Thank you, Senator Bolz. (Visitors introduced.) Further debate, Senator Erdman.

ERDMAN: Thank you, Lieutenant Governor. Good morning. Been in the queue a while, so I've gathered a few thoughts. As I reviewed LB527, which is Senator Bolz's AM1795 amendment, I see that the fiscal note attached with that was somewhere around \$1.6 million, and she was going to take that money out of the Unemployment Insurance Fund. Have no clue, because it's amendment into LB720, where that money is going to come from now. I don't understand why that bill didn't come to the floor, but there was some reasons, I would suppose. I'm not in favor of tax incentives. We heard, a couple days ago, LB670, which was Senator Linehan's scholarship program, and every administrator that was told to whined about the \$10 million that we were going to take out of public education. And when you ask them, well, I would assume then you're opposed to LB720, which could take \$200 million; and you surely have to be opposed to the Nebraska Advantage Act, that has already taken \$750 million and could get to \$1.2 billion, you're opposed to those two, right? And the answer is, I've never heard of those. So we're a little disingenuous here when we talk about \$10 million, but we're okay with \$1,500 million. If you've looked at the audit report, it is very revealing what the Nebraska Advantage Act has done. And I bring your attention to the fact, what it said about the cost of the jobs that they've created. The cost is between \$7,440 and \$208,500 for every job. We continue to treat the symptom, we never want to treat the cause. And the cause, or the reason we did incentives, is their taxes are too high. So we pick and choose winners and losers, and we give incentives to certain groups or certain organizations or companies to come here because we want to grow the state. Now, if we want to

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

Floor Debate  
May 15, 2019

---

grow the state so we get more people paying more tax dollars so we can spend more, that's the wrong reason. We do a really poor job of taking care of the 1.9 million we already have. We tax them to death. But we don't talk about that. But we're going to figure out a way to give incentives to companies to come here, and then these companies come and then they go. And we did this Nebraska Advantage Act to keep Conagra here, and many of you know where Conagra is today. We do similar things. We've done some things like this back in the '80s. There was a thing called Initiative 300. And why did we do that one? Well, because we thought that Prudential was going to buy a big chunk of ag land out by North Platte, so we put Initiative 300 in place to prevent corporations from owning ag land. Guess what? That's the N-CORPE land now. So we did 300. It was unconstitutional, and we finally got rid of it.

FOLEY: One minute.

ERDMAN: So we incentivize people to do certain things because we think it's going to be beneficial. And if you read the report, the report on the Nebraska Advantage Act, and you can honestly sit here or stand here and say LB720 is going to be a good idea because it is similar to the Nebraska Advantage Act-- and what it is, is Nebraska Advantage Act 2.0. That's what it is. So go ahead and give away some more tax dollars, some more incentives, and continue to do that. Do not concentrate on the problem. The problem is our taxes are too high. How do you fix that? You cut spending, OK? So we tried that yesterday, or we talked about it yesterday. There was no discussion about cutting spending. We couldn't even get past one amendment. So I'm not in favor of this Advantage Act, or this ImagiNE Act, or whatever you call it--

FOLEY: That's time, Senator.

ERDMAN: --because there's tax incentives. Thank you.

FOLEY: Thank you, Senator Erdman. Senator Morfeld.

MORFELD: Thank you, Mr. President. This bill's having a fun any way of bringing some of us together in different ways. I agree with Senator Erdman in that I'm opposed to LB720, but on much different grounds. First, I have been, I think, a friend of the business community for quite

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

Floor Debate  
May 15, 2019

---

some time, my five years here. And I guess I still consider myself a friend of the business community. That being said, I'm a little bit frustrated, and after five years in the Legislature I'm particularly changing my tune, and which bills I support when I am not supported and I don't see my colleagues supported for direct economic development programs that go directly to individuals. Some of those programs that I've seen the business community actively oppose in the past is paid-family leave. I've seen them oppose minimum wage, pay equity measures that would make sure women receive the same type of wages that their male counterparts receive. I've seen them stay silent on Medicaid expansion, literally a \$2 billion economic development proposal that they said nothing on. And in many cases, being the leader of one of those campaigns for that initiative, I saw them working quietly behind the scenes against. Also progressive tax reforms that would bring in more revenue to be able to fund these types of tax incentive programs. The list goes on, and I won't belabor the point. The point is, is that in order to get my support, and I know some of my other colleagues' support in the future, I want to see proactive movement from the business community. Proactive support, not just neutrality on incentives and economic development for individual Nebraskans, not just businesses. It's hard to really begin with some of my concerns in this. I think that AM1795 is a good amendment. I will vote for it, even though I will not be voting for cloture on this bill when it comes to that point. I'll also support Senator Wishart's amendment, which I think she'll be bringing up down the road here or on Select File. But a few things come to mind in terms of concerns with this bill. First and foremost for me, the minimum incentivized wage in LB720, as far as I can tell, is \$41,000, which is below the median household income of \$56,665. A family of four earning \$41,000 would qualify for reduced lunch and SCHIP. So we are incentivizing jobs that essentially would require government assistance on the back end. And I'm all about government assistance program, whether it's for farmers with crop subsidies, or whether it's SCHIP or Medicaid expansion or subsidies for healthcare. I'm in support of those programs. But what concerns me is I don't see the business community coming out in active support of those programs. They don't come out in active support of those programs but then they want us to support their government assistance programs for businesses. For businesses that could very well be paying a wage that quite frankly would require government assistance on the back end for those people that meet ends meet. That's just one concern I have with this legislation. There's many other concerns, but my overriding concern, as a person that considers themselves a progressive, as a person that considers themselves someone that supports a robust business community, but also robust jobs

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

Floor Debate  
May 15, 2019

---

for individuals. We all too often overlook that. There are basic protections that we can provide for individuals and ensure that they have a high quality of life, and that generally requires government pushing people along to do that. Because we've seen what deregulation and the erosion of laws that protect workers has done over the last 20 to 30 years. It has led to staggering income inequality, and unfortunately the market has not corrected itself. And in the past, has shown that it will not correct itself unless there is some intervention.

FOLEY: One minute.

MORFELD: I expect our business community to start being proactive on ensuring that individual workers have all the support that they need, all of the protections that they need. I will not support business incentive programs until I start seeing that. Which is why, yes, I will vote for amendments to make this bill better, but no, I will not support the underlying bill or cloture on this bill. Until I start seeing that in the future, I'm going to start talking about it more. I'm going to start pointing it out more, and I'm going to start talking and rallying my colleagues around getting the business community to support these types of individual worker incentives and protections that should be in place in the first place. Thank you, Mr. President.

FOLEY: Thank you, Senator Morfeld. Senator McCollister.

McCOLLISTER: Good morning, Mr. President. And good morning, colleagues. I've served on the Revenue Committee now, I was a part of the Economic Development Task Force, and also a part of the LB720 development team. So I'm happy to talk about this bill, which I certainly recommend to you. I need to also thank Senator Mark Kolterman on the great job he's done on this bill. He's been amenable to many changes, and I think you've seen evidence of that this morning. I think we all know that we need some kind of incentive program in Nebraska. There is a hot-- there is an arms race, an economic arms race, and incentive arms race that occurs among states. So we actually need a program in order to compete, and it has to be a program that, that is a good program. And I think we're on the way with LB720 of doing that. I think one thing you also need to recognize is that the budget process that we employ in Nebraska doesn't recognize the new jobs that these programs bring in. You know, we do see the fiscal impact when we look at the bill through the fiscal note. However, a dynamic process would also show you the new jobs



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

Floor Debate  
May 15, 2019

---

and the investment that come into the state from these programs, and we don't really recognize that as well as we should. My contribution to this bill was a control mechanism that we are amending into the bill. It's a situation where the Chair of Appropriations, Revenue, and the Performance Audit, and the Speaker, along with the DED Director and the Revenue Director come together, primarily in July, and they review those awards that have been made. They also see what's in the pipeline, and they can either dial up or dial back with recommendations to the Legislature the following January. So we do have a control mechanism in there to control the budget expense that comes to play through this, this bill. Lastly, we need to recognize that there's good transparency and accountability with LB720, a big improvement over the previous programs. So I'm happy to report that that's a part of this bill. With that, I would yield the balance of my time to Senator Kolterman.

FOLEY: Thank you, Senator McCollister. Senator Kolterman, 2:15.

KOLTERMAN: Thank you very much, and I appreciate that, those kind words, Senator. I'd like to respond a little bit to Senator Morfeld's concerns. And I agree with him. We patterned this program so that we would take care and we wouldn't have people in the lower salary ranges in the program qualifying for Medicaid or any programs like that. So, you know, \$42,000 a year is pretty much a starting job, unless you get into one of that first category, then we're looking at \$38,500. And then in addition to that they're putting the health insurance in there. Now what, how much will they pay for? We're not sure on that. But as I said earlier, most of the companies are paying a high percentage of that, that are coming into our state. The other thing that I think we need to be aware of in today's environment, and you can't say this in all certainty. But I would tell you that if think about most of the households that we have today, we do have some dual incomes. Now I know that there are single parents that are raising their children. I understand that \$42,000 maybe isn't enough with benefits. But we have to start somewhere, and if we take a look at where we've been, this is a substantial increase in what we're trying to accomplish.

FOLEY: One minute.

KOLTERMAN: Did you say that--

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

FOLEY: One minute.

KOLTERMAN: Thank you, sir. So I feel like we're making every attempt that we can to get good-paying jobs under this program, raise up that lower-income situation. And then some of the amendments that are still coming, and I'm open to those. I asked if we could call the question because I'd like to vote on Senator Bolz's amendments then get some of the more amendments on. But I think we need to talk about this some more. But at the same time, we are open to a lot of ideas, and there's some amendments coming that we've been working with. Senator Wishart's got a really good amendment, Senator Scheer's got a good amendment, and those all came as a result of listening. So with that, I appreciate the time that was "lended" to me. And I'll talk a little bit more when my next time comes up. Thank you very much.

FOLEY: Thank you, Senator Kolterman. Senator Bolz.

BOLZ: Thank you, Mr. President. I really appreciate the dialogue on this important issue this morning. The way I see it, is this is a once-in-a-decade opportunity for us to think about how we're growing our state's economy. And I know it's been said before, but I appreciate Senator Kolterman's work on this heavy lift. And because it is a once-in-a-decade kind of opportunity, I want to make it the best it can possibly be for our state. And so there are a couple of things that I want to talk about in terms of making it the best that it can be. The first thing I want to talk about, and I don't think Senator Erdman is-- oh, there's Senator Erdman. Senator Erdman, I wanted to address your question. You're correct, LB527 as introduced had a fiscal note. LB527 as voted out of the Business and Labor Committee and as proposed in AM1795 is only establishing language. It would only establish the criteria for the Customized Job Training Program, there's not a funding stream right now. And I think that's one of the flaws with the conversation that we're having with this tax incentive program is because we don't have resources right now dedicated to work force development. We can identify and establish best practices, and I think that's smart and important. But we also need to put the resources behind it to make work force development not just a problem, but an opportunity and a reality for our people. So I wanted to address Senator Erdman's concern. There is not a fiscal impact With AM1795 as introduced, but that, that is a challenge to overcome. The second thing I wanted to address is related to two opportunities that I see to make this legislation even better. And one of

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

the things that I think is a good step forward is what Senator McCollister just referenced. And if he wouldn't mind yielding to a couple questions, that would be great. As he makes his way over, I do think that having a review of the tax incentive projects could be helpful. But I want to understand better what's being proposed in the amendment, if Senator McCollister would yield.

FOLEY: Senator McCollister, would you yield, please?

McCOLLISTER: Yes, I will.

BOLZ: Thank you. So I'm reviewing Section 38 of the bill, which references the board that you were talking about. I'm struggling to understand how what is introduced is that much different from the current joint Appropriations and Revenue Committee hearing we have annually. And, you know, unfortunately, the reports that are presented to us show a negative gross impact of these bills. And so, and that hasn't led to significant change for our tax incentive programs. So I'm not clear how having a different committee with a different report leads to any sort of fiscal guide rails to make sure we're spending appropriately. Can you help me understand what's being proposed in Section 38?

McCOLLISTER: We were looking for some kind of control mechanism. You're absolutely right. And I don't those, think that kind of effort was made under the previous programs. So this is an organized kind of a thing that would occur in July of every year, and they would, that group would make recommendations to the Legislature with the following January. What could they do?

BOLZ: But what I'm not clear about is if this is structured as an entitlement program, and if you qualify you receive those credits, how could that board put fiscal guidelines in? How could that board decline to approve anything?

McCOLLISTER: Well, this group could very well recommend that we could run this process through the Appropriations Committee. They could very well recommend other changes--

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Rough Draft

Floor Debate  
May 15, 2019

---

BOLZ: Would that require statutory change to run it through the Appropriations Committee? Because, as I read Section 38, there's just no teeth. There's no drawing back something-- drawing back the incentives as contemplated if it's too much in any given fiscal year.

FOLEY: One minute.

BOLZ: Am I misunderstanding?

McCOLLISTER: No, it would require legislation to do that. But it also could enact some kind of floating caps or flexible caps that would perhaps intensify that. But of course we're not exactly sure we're going to see a need to do that. But this group could either dial up or dial back some of the entitlements.

BOLZ: Well, and I'm glad you brought that up, because I think that's an area where we could continue to dialogue. The other amendment that I have filed would establish caps so that we do have parameters, but would, as you say, dial up or dial back given the projects in any given year. So the amendment, as contemplated, would allow unused credits in any given year to roll over to the next year to be used in the future, or would allow a committee to approve additional caps if the project were deemed exceptional or important. And so maybe that's something we can keep talking about.

FOLEY: That's time, Senator.

BOLZ: Thank you, Mr. President. Thank you, Senator McCollister.

FOLEY: Thank you, Senator Bolz and Senator McCollister. Senator Bostelman.

BOSTELMAN: Thank you, Mr. President. And good morning, Nebraska; good morning, colleagues. I stand in opposition to the LB720 and the amendments. There are several reasons I do, and hopefully, over time, these things can be worked out so we can get a good bill out and get something along this line productive and useful for the state of Nebraska. One thing I think we need to talk about this morning, which many of you may or may not have went out to the

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

Nebraska Advantage Web site to look at what is actually out there on the books right now. So from 2000-2019 applications, these are the applications, this is a report dated March 31, 2019. There is 19 billion, with a B, 872 million dollars of application out there. That's to 44,526 companies. If they pay out at 4.33 percent-- that's where I've seen where some of them have paid out at-- our payout, if these are approved in some sort; now, they're an application, it doesn't mean it's going to be paid, is \$860,460,000. That would be due at time of their approval of their application, of their-- of what has been applied for according to the rules Nebraska Advantage. So right now, we're over \$19 billion in application, and of that we could owe \$860 million, \$900 million is what the state could have to pay out to reach these. Now, let's talk about a couple of these. I have an article I want to read too. May have time to get through it, may not. Let's talk about a couple of these. As I go through, there's a lot of FTEs here. There are zero, zero jobs created by this. None. Let's talk about one, UP, Union Pacific: \$1 billion, 0 FTE reported. Zero on their application. No jobs. I heard that UP is looking to potentially lay off people, move people, give bonuses to their senior management. That's something I think we need to take a look at. Burlington Northern: \$1.9 billion. They're laying off people also here in Lincoln, or they're going to. That's what the talk is: \$1.9 billion. Again, that we're giving to an area. Cabela's, we all know what happened to Cabela's: \$17.7 million. Conagra, we've already talked about Conagra. Conagra: \$45.6 million. So part of what you do is go through here. There's some really good ones. As I flip through this list here, again, I've got it, and it's easy. Just look up Nebraska Advantage Act on-line. You can pull up the March report. I mean, there's some very good ones I see in here that we've done, companies that have applied and done a good job, I think, for what their application proposes and the jobs that they create. Let's take Nucor, Nucor Corporation: \$17.3 million is the application. They're going to create 322 jobs. That's great. That is good. You know, that's, that's what we need to have happening in this state. Another one, let me look here. Here's another one. Kawasaki Manufacturing: \$32 million, and they're creating 300 jobs. That's great, 300 jobs for \$32 million. That's their application. So that's a good deal. So let's see what else we have in here. First State Holding Company and subsidiaries: \$3 million for 30 jobs. First York Bancorp: \$3 million for 30 jobs. Those are good applications, I think. If they actually create those jobs for that, that's a good opportunity for the state to grow.

FOLEY: One minute.

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

BOSTLEMAN: Conagra is 350 jobs.

FOLEY: One minute, Senator.

BOSTELMAN: Thank you. For \$17.7 million that's gone. Cabela's was 300 jobs. BNSF, I already talked about, was \$1.9 billion for 325 jobs. All Tell: \$34 million, 0 FTEs. I'm going to get back on the mike again. I'll kind of go through these on FTEs on that applications that are 0, will add up that amount on there. And those are things that are my concern with the bill as it is, that we make sure we're-- these things don't happen again. And we're looking at those, and that we're making sure the applications are good, companies are sound that are going to be here. The other thing we'll talk about on my next time on the mike is the governing magazine. If you get the governing magazine, it's an orange thing. If you go on page 20 and 21, the title is behind the numbers. It's on the observer taxing incentives. Tax breaks may or may not create jobs, but they help state's overall fiscal health?

FOLEY: Time, Senator.

BOSTELMAN: Thank you, Mr. President.

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

CLERK: Mr. President, Enrollment and Review reports LB464 as correctly engrossed. An amendment to LB583 by Senator Bostelman. Notice of hearing from Transportation Committee. Mr. President, I have a priority motion. Senator Erdman would move to bracket LB720 until June 6.

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

ERDMAN: Thank you, Lieutenant Governor, appreciate that. Senator Chambers has taught some of us a few things. I was so far down I would have never got to speak again. Senator Bostelman, I don't know if you realize this, but the information you were sharing was the facts, and that's a dangerous thing in this body is to share the facts. Because they don't normally have any influence

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

Floor Debate  
May 15, 2019

---

on anybody, but I do appreciate what you said. Senator Bolz, I would like to ask you a question, if you'd yield.

FOLEY: Senator Bolz, would you yield, please?

BOLZ: Yes, I'll yield.

ERDMAN: Senator Bolz, AM1795 you said has no funding. It's just going to start the program. Is that correct?

BOLZ: It would establish the criteria for the Customized Job Training Program.

ERDMAN: OK. So next year if it comes to the Appropriations Committee for funding, if you get five hands, would it then be funded?

BOLZ: No, not until the budget passes through the body.

ERDMAN: Let me re-ask that. If next year you bring at the Appropriations Committee, and you get five hands in the committee, and it is included in the budget and the budget passes, would it then be funded?

BOLZ: Yeah.

ERDMAN: Okay. Thank you for answering. So we're into the second day, we're in the second day of the school of how to slip things in by Senator Bolz. We're on the second day. This is how you do it. This is how you do it, guys. You slip it in there, don't fund it, and then you wait until the revenue becomes available or whatever you need to do to take it out of some cash fund or however you're going to do it. And if you're on the Appropriations Committee, you can slip that in there, and it works really good. Senator Bostelman pointed out to you many of the fallacies with the Nebraska Advantage Act. And as I look through the report, I was glancing through and there was a pie chart that talked about the amount of earned income tax credits that have been used, and those that were obligated in the future. And it's found on page 14 of the report. And it

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

Floor Debate  
May 15, 2019

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says, tax credits earned: \$905 million; tax credits used: \$415 million. So that leaves earned-- now, listen-- earned, but not used: \$490 million. That's an obligation into the future. They've earned them, but they haven't used them. So when you say the Nebraska Advantage Act is going to tail off, and then ImagiNE is going to pick up, it's going to be a long time before Nebraska Advantage Act tails off. So if you're okay with double dipping, then vote for LB720. I am not. And we'll continue this discussion until probably 12:09 or whatever three hours is. But when you read through that report, some of the most disturbing parts of what was described in there was between 2008 and 2017. And I'm sorry I'm going to use facts here. Revenue to the cities was reduced because of the Nebraska Advantage Act by \$36.7 million. That was the reduction in revenue to the cities: \$13.67 million. And then it also said the cost range from one job from one year to the next is estimated between \$5,000 and \$108,000 per job. That makes a lot of sense, to create a \$40,000 job by spending \$108,000 in tax dollars, Senator Dorn. It doesn't make any sense. Then it also goes on to say between 2008 and 2017, property in nine counties was exempted from taxation due to the Nebraska Advantage Act. The exemption was claimed by 27 projects, in total an estimated \$1.9.5 million (SIC)-- \$109.5. The largest estimated impact was on Platte County, \$40,400,000. Sarpy County: \$34 million. And Washington County: \$21,300,000. It goes on to say that the property tax, this property tax supports multiple political subdivisions. And the largest impact on those subdivisions was the schools. The schools lost an estimated \$65.8 million in funding because of the Nebraska Advantage Act. The schools lost \$65 million. So where are those schools talking about the Nebraska Advantage Act? But they're worried about Senator Linehan's bill for \$10 million. No concern at all for \$65 million that they've already lost in the last eight years. The following is true, the counties lost \$17.4 million. And the cities, as I said, have lost \$36 million. So we continue to incentivize people to come here because, as I said earlier, our tax system is broken and we're not competitive. Not close. Not even close. Our neighbors are so far ahead of us we may not even be able to catch up. We're as far behind as I am behind on Senator Bolz on how to sneak things in. That's how far behind I am. If you vote for LB720 and then you wonder why your taxes are so high, I'll give you a clue, you're going to be double-dipping. Because you're going to have to pay for the Nebraska Advantage Act. We've already made commitments for the next 30 years on some of those, and now we're going to pick it up with Advantage 2.0. I understand that. We talk about growing Nebraska. The reason have to be incentivized to come here and start a business is our taxes are too high. The state of Arizona, believe it or not, the state of Arizona does not even offer TIF. You wonder why?



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

Floor Debate  
May 15, 2019

---

Because in Arizona, a house in Arizona that is worth \$140,000, the property tax is \$605. People move to Arizona when they retire not because they like it to be 110, it's because they like to keep the money that they have in their pocket instead of paying property tax. So they move to Arizona. And I understand Arizona has a lot more people than Nebraska has, but we need to start making decisions here on how we spend our money and how we can spend less. Not how we can give more money away to incentivize people to come here who don't stay here. I said this to Senator Chambers when LB720 first came up because I know Senator Chambers was not a fan of Nebraska Advantage Act. It passed late at night. And I said, Senator Chambers, we get an opportunity for another bite at the apple. And he smiled. And that's exactly what we get here today. So when we have done something like the Nebraska Advantage Act and we see the results of what we've done, and then go and try to do Nebraska Advantage Act 2.0, it doesn't make any sense. Let's review what Nebraska Advantage Act actually did. What it actually did. And if, in fact, it did what they say it did, we should do it again. But it has not. And Senator Bostelman and I have been pointing out to you using facts about what the obligation is going to be going forward with the Nebraska Advantage Act. And if you're OK with doubling down on that, then you need to vote for LB720.

FOLEY: One minute.

ERDMAN: Thank you, sir. And if you're not, then vote no, and let's fix our spending problem so we can fix our tax problem. Because, you see, that's the only way you can lower taxes, is to cut spending. And Senator Kolterman went into his dissertation yesterday. I tried to figure out what he was saying, I couldn't quite get it. The reason you make cuts is because you don't have the revenue, but we don't ever take that into consideration here. We probably never will, unless we're forced to. And we may very well in the future be forced to. Thank you.

FOLEY: Thank you, Senator Erdman. Senator Brewer.

BREWER: Thank you, Mr. President. Good morning, colleagues. I think I'd like to start by asking a few questions to Senator Kolterman. Would he yield?

FOLEY: Senator Kolterman, will you yield, please?

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

KOLTERMAN: Absolutely. Yes.

BREWER: All right. I'd like to start by telling you I think you've got some good things in here. My problem is, I'm trying to understand both the appropriations process and the revenue process and how decisions are made. Your idea of work force development is good and needed. But let's slow-walk this for a second. We have a work force that's already developed that is not being affected, and that's the part I'm a little bit struggling with. And let's start by some just general questions. Who is the largest employer in Nebraska?

KOLTERMAN: I believe might be the University of Nebraska. I'm not positive of that.

BREWER: I would agree. Do you got any idea what that number is?

KOLTERMAN: I don't.

BREWER: Roughly 12,000.

KOLTERMAN: OK.

BREWER: Do you know how many work at Offutt Air Force Base?

KOLTERMAN: No, I do not.

BREWER: Roughly 9,000. If we take our Guard and Reserve, throw them in there, we're at between 5,000 and 6,000. So roughly, 15,000. LB153 would simply attempt as best we can with the resources available to keep the work force that is already here and already trained, whether it be in the aviation skills, the electronic skills, or just the personnel skills that the Offutt Air Force personnel would have-- let alone the guard and reserve piece of this. Yet, LB153 never made it out of committee. Now, you sit on the Revenue Committee, correct?

KOLTERMAN: Absolutely, yes. And I would tell you, Senator, I'm 100 percent behind LB153 and support it.

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

BREWER: So why did it not come out of committee?

KOLTERMAN: I don't-- I--

BREWER: OK.

KOLTERMAN: I don't chair the committee. You'll have to ask somebody else that question.

BREWER: All right. I know the chair, and I will shift to that at a point here.

KOLTERMAN: But you have my support there.

BREWER: Thank you, and I appreciate that. Is there currently anything, or was there anything in the Nebraska Advantage Act, that would directly support veterans and transitioning veterans to the work force?

KOLTERMAN: I believe Senator Bolz's bill could be a player, or her amendment could be a player, in helping that. Unfortunately-- and also, we had a bill that Senator Stinner had brought to Education, that hadn't gotten out of Education yet. We had that attached to this bill originally. And originally, we were going to pass it out. But since it hadn't gone through Education completely and passed out, we couldn't add it to the bill. It dealt with high-quality, high-wage earners. So many of the people that get out of the service after four years, they would be eligible to go back to school and get some really good educational scholarships. But unfortunately, as a result of not having it come through Education, we weren't able attach that.

BREWER: OK.

KOLTERMAN: But we are looking at those issues.

BREWER: Enough picking on you. I need to shift fire. Senator Stinner, would you yield?

FOLEY: Senator Stinner, would you yield, please?

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

STINNER: Yes, I will.

BREWER: All right, so the Governor had the LB153 in his plan.

FOLEY: One minute.

BREWER: The Appropriations takes a look at that and they decide what to keep and what to not keep. Is that accurate?

STINNER: The LB153 had to come out of committee, then would it have been an A bill to be added to the budget on the floor.

BREWER: OK. So it has to, we have other bills that have come out, but it has to come out of committee before Appropriations will consider it? Is that right?

STINNER: And it will be considered by the entire Legislature. And if it's worthy, we pass it and it adds to the budget.

BREWER: So right now my only option is to pull LB153?

STINNER: Either that or put it on some other bill, or try to get it passed in some fashion. There's other avenues.

BREWER: All right. I think our veterans are being neglected, and they are a huge part of the work force that for some reason we do not want to develop. We'll take this up later. Thank you, Mr. President.

FOLEY: Thank you, Senator Brewer. Senator Geist.

GEIST: Yes, thank you, Mr. President. And I actually stand in support of LB720 and the amendments, other than the bracket amendment that we are arguing right now. And I'm in support of this for several reasons. One being that, being the Chair of the Performance Audit

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

Committee, I had a front row seat on looking at some of the things that were in dispute about the Advantage Act. And I do see LB720 as being a better bill than what we have been operating under currently. And one of the things I'm especially encouraged about is Senator McCollister's oversight committee. I think that's an excellent idea, and excellent addition to this group. And basically, I'm sure that you heard Senator McCollister speak to this, but what it does help is to review what is happening annually with the bill, with the money that is being dispersed or potentially being dispersed, being able to set budgets for the coming year on what the disbursements will be. And so it gives transparency, it also gives some accountability. And should tweaks need to be made to the bill, there's an avenue with that committee to do that annually. And I think that's a great addition to what we have. So, but I do have some questions as the Chair of the Performance Audit Committee. I do have some questions that I think need to be answered so that going forward with this bill the Performance Audit Committee does, would have the tools it would need to fairly audit this bill annually or every five years, which is their charge. And so I'd ask if Senator Kolterman would yield to a couple questions.

FOLEY: Senator Kolterman, would you yield, please?

KOLTERMAN: Yes, I will.

GEIST: Thank you, Senator Kolterman. An issue has come up before the Audit Office when trying to answer questions about the employment and wages for the Advantage Act, and there was not enough information available to identify which employees were counted toward an increase in FTEs. And that issue can be solved by requiring companies to report the social security numbers of those individuals to the Department of Revenue. There are a couple of places in the committee amendment that could cover this, but I just wanted to be sure that we could get that information so that the Audit staff could do an accurate audit. The place specifically is on page 11, and it's on-- it's the partial sentence between lines 2 and 3: The taxpayer shall agree to increase employment or investment at the qualified location or locations and report wage and hour data at the qualified location or locations. And I'm wondering if you would consider putting that additional requirement within the body of this because that is one of the needs that the Performance Audit would have in counting FTEs.

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

Floor Debate  
May 15, 2019

---

KOLTERMAN: We sat down, Senator Crawford and I sat down, specifically with Director Rippe, and he explained to us that when they have the application, they have to sign off to the fact that they will provide that information by location. It will go to the Department of Revenue, but they will also cross-reference that with Department of Labor.

GEIST: OK.

KOLTERMAN: And so we feel like that's one of the things that has enhanced this bill. We have a lot more reporting on an annual basis. So once a year, I believe it's by July 15, any company that's made an application--

FOLEY: One minute.

KOLTERMAN: And they have to start reporting their information on an annual basis, whether or not they qualify for the number of jobs or the number of investments that they have made. That information then will be utilized to evaluate where they are at, whether or not they qualify for their credits. So I think we've got that covered in the bill.

GEIST: OK. And specifically to location.

KOLTERMAN: Yes?

GEIST: Currently they say within the state an exact address is needed so that they can judge the qualified location with an exact address and town that that location may be needed in. Does that also apply--

KOLTERMAN: That's all in the application process. We're going to have all that information available to us. We're going to be able to utilize it to the best ability. And that's what's unique about this, because we have labor--

FOLEY: That's time, Senators.

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

GEIST: Thank you. Thank you, Mr. President.

FOLEY: Thank you, Senator Geist and others. Senator Albrecht.

ALBRECHT: Thank you, President Foley. Colleagues, I did sign onto LB720 early on. I did serve on the Work Force Development Task Force this past summer, and Senator Crawford did an outstanding job directing that. I hope to hear from her today because she did put quite a bit together for us to listen to through the interim. And I do stand in support of LB720, but I'm certainly going to take a hard look at every amendment that comes on this bill. I appreciate everyone being able to talk about how they feel about this. This, because it does sunset in 2020, we do need to be mindful of the businesses that may want to come here. My biggest thing when sitting through the Work Force Task Force this summer was the fact that we have companies in our state right now that want to expand. And I want to grow Nebraska strong. We certainly want to take care of those that we currently have, and also take care of those that might very well choose to come to Nebraska. And with that said, Senator Briese handled it well this morning in talking about, you know, normally we come with these tax reforms that have this included in everything that Senator Linehan from the Revenue department has proposed with the tax cuts. So we're talking about this separately today, but we also need to be very mindful of what we end up with on the revenue side of things, because if I were a company wanting to come to the state of Nebraska and looking at the property taxes and the income tax and the corporate taxes, what might work for the company might not work for their employees that want to live here. So I can certainly see that this would be something that would need to be done because we don't want to sunset something and not have something to go with it. But we are the policy-makers. We will decide what would be best for the greater good of our state. I just would like to yield my time to Senator Kolterman. I don't believe he's had enough time to, to actually deliver this. And if you can talk a little bit about the sunset that will come, Senator Kolterman, with this bill, that would be important to us. Thank you.

FOLEY: Thank you, Senator Albrecht. Senator Kolterman, you've been yielded 2:30.

KOLTERMAN: Thank you very much. And thank you, Senator Albrecht. As far as the sunset is concerned, what our goal is, is to sunset the Advantage Act once this bill goes into place. And

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

again, one of the main reasons is we feel it's abundantly important to stop LB775 and the Advantage Act, because they are cumbersome. We don't know exactly where we're going to be from year to year. And again, that's why we're bringing this bill. There's a lot of accounting that's going into the bill on an annual basis. A lot of more information is going to be gathered. The process is going to be streamlined. So the Department of Economic Development, Department of Revenue, and the Department of Labor are going to be working very closely, both with the Department of Economic Development to manage this bill, but also with the Appropriations and Revenue Committees once a year as a result of the committee that Senator McCollister has recommended we put in the bill. So it's going to sunset in 10 years, once that takes place, Senator Albrecht. And so I think that this is just like any other incentive package that we have had. I hope that answers your question. I also want to talk a little bit about, the issue of Conagra came up. I want to talk about that Conagra a little bit. Regarding them, it's true they relocated--

FOLEY: One minute.

KOLTERMAN: --their corporate headquarters to Chicago in 2015. But what people don't know, it's also true that they retained a significant number of employees and investment in Nebraska. And recently they announced a plan for \$500 million community investment, reinvestment in downtown Omaha. Five-hundred million. This is coupled with the \$300 million riverfront development project, and it's going to change the face of eastern Omaha for generations to come. That's \$800 million that they have been involved in. In addition to that, after the enactment of LB775, for 30 years Conagra had economic growth and expansion in Nebraska, including the creation of several spin-off companies which have also chosen to headquarter in Nebraska. Our state would have lost those opportunities as well, without the enactment of LB775 in 1987. So you can say what you want about Conagra, but they still have a large presence in Omaha. They're a good company. They have spin-off companies a result of that.

FOLEY: That's time, Senator.

KOLTERMAN: Which you see. Thank you very much.

FOLEY: Thank you, Senator Kolterman. Senator Linehan.



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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

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LINEHAN: Thank you, Mr. President. I just want to take a couple of seconds here, maybe more, like a couple of minutes, and thank the Revenue Committee and the Revenue Committee staff. We have all the members, Senator Kolterman, Senator McCollister, Senator Crawford, Senator Briese, Senator Friesen, Senator Groene-- oh, Senator Lindstrom, excuse me, I wrote my name down twice-- for all their hard work this year on this bill, on the property tax bill. And yes, to answer Senator Brewer, there is an income tax package that we have not gotten down out onto the floor because we can't figure out exactly the pay force. But they have as a group individually put in incredible number of hours, not just in our committee meetings and studying, but brought very well-thought-out ideas to the committee. So before I turn this over to Senator Kolterman, I just, I wanted to recognize how much I appreciate all their hard work. And I know that people have told me that they appreciate what we have done. But I could not have done it without the help of that committee. So with that, I will yield to Senator Kolterman time. Thank you.

FOLEY: Thank you, Senator Linehan. Senator Kolterman, 3:30.

KOLTERMAN: Thank you very much, Senator Linehan. I appreciate your support on this bill as well. I want to take, I want to continue on where I-- I started talking about Conagra and how important they are in our state, even though they moved their headquarters: 1,200 people, good-paying jobs in Omaha, Nebraska. I mean, come on, folks, that's nothing to sneeze at. And then the question was, why doesn't investment-only category focus on people? Well, I'm gonna give you what I perceive is the answer to that. In a low population, the geographically-dispersed state like Nebraska, an investment-only incentive category is an important recruiting tool. Currently, Nebraska struggles to fill jobs, and so companies that are unlikely to create large numbers of new employees. But they would invest tens of millions of dollars in our state so that they can improve the working conditions and streamline their businesses. Investment-only category also helps supports industries that often have a direct impact in lowering property taxes. Support for renewable energy production would be an example of that. Now, some people don't necessarily like that, but the reality is it does help our people where you're putting in renewable energy, the leases that are taking place there, and the byproducts that we receive from that. Also, under the ImagiNE Nebraska, people are not necessarily entirely out of the equation in the investment-only category. Even companies in the investment-only category have to show that their existing employees are getting an average wage that meets at least 150 percent of the state average wage.

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

Floor Debate  
May 15, 2019

---

So investment-only, while it sounds like they're just going to dump \$50 million into our state or into their business, which, by the way, isn't something to sneeze at, is a huge item. But at the same time, they have to continue to pay good wages and create good jobs. Then I want to talk a little bit about the governing article, the study on incentives that was addressed in the magazine. I read that article, and I looked at it as being positive in the state of Nebraska. Yeah, every state has a different perspective on that. But the reality is, we are winning the battle when it comes to promoting our state and bringing people here. And so maybe you can say, well, they would come anyway. I don't necessarily believe that. But how does LB720 take into consideration the state's fiscal health? I would tell you, less than 3 percent of the state's budgets are allocated to incentives.

FOLEY: One minute.

KOLTERMAN: And you're going to hear more when Senator Stinner gets his chance at the mike to address some of the fiscal concerns. But the year-to-year viability is-- variability is very minimal under this plan. And if you look at the one graph that I showed you earlier, you'll see that we have kept this program very low as a part of the state budget. So I don't-- even going back to when LB775 started, we have not overspent our budget in this area. The incentives most associated with weaker state fiscal health across all metrics was research and development tax credits. And research and development tax credits are not allowed in LB720, which that study talks about. The study also found a smaller negative fiscal effect from property tax abatements. Only one category, the mega project category allows for real property tax abatements.

FOLEY: That's time, Senator.

KOLTERMAN: And we're changing that. Thank you.

FOLEY: Thank you, Senator Kolterman. Senator Friesen.

FRIESEN: Thank you, Mr. President. Colleagues, I handed out a study earlier this morning that talks about Timothy Bartik, he's from the Upjohn Institute for Employment Research. He's perhaps the leading student of the incentives in economic development, and he's done a report

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

Floor Debate  
May 15, 2019

---

that looks at economic development packages all across numerous states. He has looked at things across 33 different states. They make up about 90 percent of the U.S. GDP. The study includes data from 47 cities within those states. And I'm just going to jump through some of the highlights of this. That he said the biggest single type of incentives are job creation tax credits and property tax abatements, which account for 70 percent of all tax credits. He arrived at a figure of about \$45 billion, would be about 1.5 percent of all industry value added for trading or exporting industries in the United States. And that's about 30 percent of what they pay in state and local taxes. Incentives given to manufacturing firms amount to more than 35 percent of the state and local business taxes paid by the manufacturing firms. These are numbers that, you know, you can just go through, and as you look at-- we're not one of the top states in incentives, but we're very close in our incentive package. They-- in other reports I've see it referred to as a Cadillac, Cadillac state. One of the things the study concludes, that there is little or no connection between the level of incentives the state forks over to businesses and its economic fortunes. Incentives do not have a large correlation with the state's current or past unemployment or income levels or with future economic growth. He notes, however, that these results were preliminary and might change in a more full-blown model that he is doing. But the conclusions are in line with a wide body of research on the wastefulness of business incentives. A 2002 study of some 350 companies that received incentives found a negative effect on their ability to create jobs. Companies that received incentives expanded more slowly than others, and overall the affect of incentives was a reduction in 10.5 jobs per establishment. And his own research published on-- he's got a Web site-- found virtually no association between business incentive and any measure of economic performance, including wages, income, and unemployment. There's numerous research available, and I haven't found one that says that it's productive and does anything. Would Senator Wishart yield to a question?

FOLEY: Senator Wishart, would you yield, please?

WISHART: Yes, I will.

FRIESEN: Earlier, you talked about growing Lincoln and how fast Lincoln has grown. And I have asked this question before. I always ask people, I said, you know, we spent a lot of money on economic development. And so we're supposed to, and the Governor keeps talking about

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

growing our way out of our shortfall in revenue. So can you tell me, Lincoln is growing rapidly, not?

WISHART: Yes. From my perspective, yes. And I think the numbers play out.

FRIESEN: I think Lincoln and Omaha are probably one of the fastest-growing communities in the state.

WISHART: Yes.

FRIESEN: So has, have any of these communities grown theirselves into a lower tax policy overall? Have they lowered taxes in Lincoln and Omaha?

WISHART: Well, it's my understanding that Lincoln has one of the lowest property tax rates in the state.

FRIESEN: I didn't ask about property taxes. I'm talking about taxes, expenditures that the city has to make. My example I guess would be, when anything grows, it costs money to grow. And I'm not criticizing Lincoln, but can you grow a city without spending money?

WISHART: I think for a city like Lincoln, with the infrastructure needs we have--

FOLEY: One minute.

WISHART: --it's important for us to invest in especially roads.

FRIESEN: Thank you. Thank you, Senator Wishart. Again, show me a community or a state who has grown their way into lowering taxes. Communities, it costs money to grow, no more than it costs a farm to grow. We spend money to grow. And I have not yet seen a community that has grown so much that it can lower its taxes. Yes, they broaden their base, they always are spending more money to develop infrastructure, to build out to those additions. I don't know if

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

Floor Debate  
May 15, 2019

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we'll ever grow our way out of our tax problem. We have to start thinking of things differently. And this won't change any of that. Thank you, Mr. President.

FOLEY: Thank you, Senator Friesen. Senator Dorn.

DORN: Thank you, Mr. President. And thank you, colleagues. I stood up often and I made the comment that I really appreciate the conversation sometimes that we have on the floor. And this is another one of those. I think both sides are getting a real good opportunity to have a discussion on some of the important aspects of LB720. I will compliment Senator Kolterman on all the work he's done on the bill. I think he's been a real trooper hanging in there. And I'm always amazed at the end of the day he has a smile on his face. Although, sometimes I look back there today and he's frowning just as much as smiling. So and with that, I'd like to ask Senator Kolterman a question.

FOLEY: Senator Kolterman, would you yield, please?

KOLTERMAN: Absolutely for you, Senator Dorn.

DORN: He's smiling again. I guess from the ImagiNE Act, what are the two main focuses-- I look at two main focuses in that being job creation and growing business.

KOLTERMAN: Those would be two of them. I would also say accountability. There's much greater accountability and transparency in this legislation.

DORN: One of my questions then, with creating jobs is, I think Senator Wishart the other day brought up the numbers that we are about 60,000-plus open jobs in the state, and we have about, if you took the full unemployment we have, that's about 35,000. So there's, you know, there's a number of empty jobs there already. Where-- creating jobs in this, how does that help solve that problem? Or what am I missing in this bill? What do we need to do-- I know Senator Bolz has her work force development one, I like that proposal in there. We already have jobs that we have open here. How does this help solve those problems?

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

Floor Debate  
May 15, 2019

---

KOLTERMAN: Well, people that are looking for good-paying jobs are shopping the market to find where they can get a good-paying job. So if we have new companies coming that are going to create higher-paying jobs than what we have currently, it gives the opportunity for those people to search out a better-paying job. That's one thing that I believe this helps with. And those that are unemployed currently, and that are looking for an entry-level job, \$42,000 is not a bad, I mean, if you look at some of the wages paid, 42,000 plus benefits is not a bad-paying job. So I believe that we're creating, by creating new opportunities, new jobs, we're going to take care of some of those-- we're going to allow people to move up in their pay scale, if they want to move or if they want to take a look at a different job. But at the same time, we're also bringing additional tax dollars to the table in the sense that they are going to pay property taxes, they are going to pay taxes on employment. And the people that they hire are going to be paying taxes and property taxes, because they are going to be building new houses and moving to the state. So I-- it's just a win-win.

DORN: Thank you for that part, but I do have another question for you yet. I visited with you yesterday about, I see there's about 15 amendments on this bill. I had one proposed, but I had one proposed on a scholarship part of this. That part of their credits would be going to then a scholarship for continuing higher education. And I visited with you yesterday, decided not to even introduce it because of all the other amendments. But also partly because there were a couple bills out there in some committees on different scholarships that I kind of patterned mine after. And I'm not sure they would have met the criteria to pass that ability to come out of there or whatever.

KOLTERMAN: I appreciate that, Senator Dorn. I think that we'd love is the H3 program that Senator Stinner-- we need to keep the brightest and the best students in the state. Governor Ricketts had a press conference the other day where he looked at the people that had got 100 percent on the ACT--

FOLEY: One minute.

KOLTERMAN: --and the SAT. Is that time?

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

Floor Debate  
May 15, 2019

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FOLEY: One minute.

KOLTERMAN: So I don't want to take all your time, but I believe if we can create really good-paying jobs, we can keep those kids here. We need to keep those kids here.

DORN: Well, and it depends on how this bill ends up or whatever. I sure might bring that back next year. I appreciate Senator Kolterman answering some of the questions. And I think that's a good part of the discussion we have. I will not support LB720 because we do have enough other things in the budget and enough other things that we're appropriating in future years, property tax relief and everything else. At the current time, I'm not going to support that. I probably will maybe support Senator Bolz's work force development bill. I think we need to continue to work to make LB720 better than it is today and continue the discussion. Thank you.

SCHEER: Thank you, Mr. President. Colleagues, just heads-up, as we're getting close to the noonhour. We will run this until approximately 12:15 and then break for lunch, and then return at 1:30. So just if you were thinking about it or your stomach was rumbling, that's our plans. Thank you.

FOLEY: Thank you, Mr. Speaker. Continuing discussion, Senator Murman.

MURMAN: Thank you, Mr. President. And I, too, would like to thank Senator Kolterman and the Revenue Committee for bringing this bill out, and for all their hard work on it. And like Senator Dorn, I very much appreciate the conversation as a new senator. I would like to share a message that I got from a constituent in Minden. I've gotten several similar e-mails, and they voice concerns that are very similar to my own. I think you can hear the frustration in his e-mail, and that also is very similar to my own. And I quote, Dear Senator Murman, I am pro-business, but I cannot support LB720. I can't believe the Legislature would consider doing another round of business incentives without first doing something meaningful on property taxes. That is my number one concern and a concern shared by my neighbors. I ask that you oppose LB720 and instead work with your fellow senators to help pass substantial property tax relief this session. Colleagues, I know I have said it before on the floor, but I can't stress it enough: My constituents are struggling. They need property tax relief now. If I get another time on the mike, I might list

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

Floor Debate  
May 15, 2019

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examples of not only farmers, but other business owners and homeowners that are leaving the state only because of the outrageously burdensome property taxes. There have been comments in this discussion about how these business incentives will help grow Nebraska by creating jobs and growing businesses. How can we expect these new employees to prosper in our communities if they are burdened with paying high property taxes? Our constituents are spending too much of their hard-earned money on property taxes every year. Creating a new tax incentive program is not our number one priority. What we need is property tax relief, if we really want to grow. Property tax relief would encourage huge economic developments all over our state. Our goal this session should be to pass a comprehensive plan that provides fair funding for our schools, while giving substantial property tax relief. I would like to also add a little bit about what Senator Briese mentioned earlier. We have a revenue-neutral bill that would give property tax relief, that would in turn be a great thing to-- by reducing property taxes to encourage economic development all over our state. Thank you very much, Mr. President.

FOLEY: Thank you, Senator Murman. Senator Vargas.

VARGAS: Thank you very much, President. Colleagues, this is always hard. I can't remember who said this earlier on in the beginning, that they are very supportive of tax incentives. I'm one of those people. Actually, really-- and Senator Linehan, I don't know where she is, but the other we were having a conversation and it's a couple of people mentioned this with the tax credit for the private, parochial schools. I believe that it's neither being supportive of that bill was not about being pro-public or pro-private. I think the same thing is true for this bill, that this is not-- voting against it or for it doesn't mean you're inherently against tax incentives or you're for incentives or pro-business or not. I think there's nuance. We are debating the policy, which is what we should be doing. So I do want to thank Senator Kolterman, everybody has been thanking him because he has done work on this and individuals in the committee have done work on this. And that is admirable. Some of the concerns I have are more to do with the realities and conditions that we face as a Nebraska Legislature versus other states. I think sometimes we compare apples to apples or we try to. But the Nebraska Legislature being we have term limits, we have a biennium budget, we don't incur debt, and we have a balanced budget we put out means we are very, I think, extra constrained by the limits of what is in front of us in terms of our budget. We also know that everybody that's here will not be here when LB720 or another virgin-- version of it is



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

Floor Debate  
May 15, 2019

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continually, you know, acting out and is going to be enacted. And that is concerning because that means that those of us having the debate here won't be able to, to be able to say: These are the concerns that were brought up. And now we can then review it and address it. Instead, we're gonna rely on institutional knowledge, which we know is lost. So that is a concern. It's something I'm hoping we can address. There's a couple of items I just want to talk through that are questions, things that I hope get, we can continue to work on and get some clarity. The first is a little bit about the way that-- why we didn't go down the route of seeking caps. And I know there was a debate, and I'm not part of the Revenue Committee. Why we didn't go down that route. And part of the reason is, you know, looking at Pew Trust's research and OpenSky, and then a couple of others when we're looking at tax incentives. And I'm going to read this from a report from the Pew Trust: That even the best cost-estimate has a margin of error. For this reason, some states have chosen to safeguard their budgets by appropriating money for incentives in the budget or by setting a cap on the amount that can be sent from year to year. With policies like these, tax incentives function more like regular spending programs, with lawmakers retaining control over the cost, and less like open-ended commitments. When used together, reliable cost estimates and annual cost controls can help enable states to seek new jobs and new businesses while avoiding unexpected challenges when the time comes to pay the bill. So as a question for Senator Kolterman, because I'm trying to get a better understanding, if you would yield to a question.

FOLEY: Senator Kolterman, would you yield, please?

VARGAS: There he is. So I'm prefacing the question. The question is, would you be able to tell me why, you know, based on some recommendations coming out of Pew, and even some recommendations from Open Sky, and we have seen more people saying we inherently need a need for some more controls. Why we didn't seek to then go down to having a cap on the amount we spend from year to year?

KOLTERMAN: That's a really good question. I appreciate that. My staff and I--

FOLEY: One minute.

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

Floor Debate  
May 15, 2019

---

KOLTERMAN: --looked at Iowa's program and we actually, since my staff comes from Iowa, they had 14 Senators that we could reach out to and talk. They do have caps in Iowa. We talked to them and, by and large, most of them said, hey, we can put a cap on it, but we raise it every year anyway. So that's why we went to the McCollister idea that we can adjust up and down if we need to. We still feel like the bottom line comes back to the Unicameral once a year through that committee. The other thing is, the Pew Institute-- I'm glad you mention them-- they say that our program, our Nebraska program, is one of the most transparent programs in the country with our current reporting and monitoring. And we're doing more in this new bill to take that into account. Does that answer your questions?

VARGAS: It does. Well, it helps answer part of the question. So, one, I just want to state, I still think there's a need to--

FOLEY: That's time, Senator.

VARGAS: Thank you very much. I'll put my light on again.

FOLEY: Thank you, Senator Vargas and Senator Kolterman. Senator Blood.

BLOOD: Thank you, Mr. President. Those senators, friends all, I stand in opposition to Senator Erdman's bracket but in full support right now of Senator Bolz's amendment, the Revenue amendment, and underlying bill. And I look forward to several other amendments that I think will make this a much better bill. I'm here to say that for over 10 years, Sarpy County cities have sought legislation, legislation that gives them the greater transparency that they need to properly budget for sales tax refunds. And Sarpy County cities have told me that they feel strongly that their concerns are finally addressed in LB720. Now, many businesses have located in Sarpy County, due in part to the state incentive program that Nebraska currently has. And that is why the United Cities of Sarpy County, that is comprised of more than 181,000 of Nebraska's population; and includes La Vista, Papillion, Springfield, Gretna, and Bellevue, some of Nebraska's fastest-growing municipalities, support this bill. And I have to say that I agree with Senator Lindstrom when he said: Grow the base, lower the rate. We're worried about property taxes, and to say these are two different issues and they cannot be one issue I think is just not

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

Floor Debate  
May 15, 2019

---

correct. I think we have to look towards the future of Nebraska, and this is how we do it. I'm not sure if I agree with some of what I have just heard from Senator Vargas and Senator Kolterman, unfortunately. I think fiscal protections and caps are important issues. And again, I'll be looking towards future amendments. I want to see that the pooling issues and the insurance issue is addressed, which I know is in Senator Matt Hansen's amendment. I think we can make this a better bill and something we can all come together on, because we can do better for Nebraska. But with that said, I want to build on what Senator Brewer said: LB153. I want to remind everybody on this floor that for decades we have promised to do better with Nebraska's veterans and their military retirement. I am sick and tired of driving by Offutt Air Force base and seeing all of these cars that have Iowa license plates. I'm sick and tired of going door to door and having people tell me, hey, I really like Nebraska, but I can save so much more money if I just go across the river. And the commute time is going to be the same for me to get into Offutt Air Force base, so why wouldn't I want to do more with my retirement? We have 13,000 military retirees that bring in over \$370 million-- \$73 million in retirement here in Nebraska. And that supports 2,700 supporting jobs. The \$1 billion right now that's going to be done in VA spending in Nebraska will also see reduction, which means people will lose their jobs or have to find jobs elsewhere. But the bottom line on LB153, and I hope we can figure out something that we can do in the next 13 days, is that it is an insult to their service and sacrifice for my freedom for me to be able to stand up here today and talk to you while your backs are turned to me-- thank you, Senator Cavanaugh; thank you, Senator Gragert and Senator Crawford. Everybody is turning now. I can't say thank you any more. I'm gonna use up my time. We can do better. I had my own military exemption bill, and I was happy to pull it back and support the Governor's bill in reference to military tax exemption. It was given to Senator Brewer as his bill to carry.

FOLEY: One minute.

BLOOD: Senator Lowe made it his priority bill. But I feel somehow it's been lost in the shuffle and that we can do better. And before we leave this Chamber this year, I want to see a solution, because we need to support our veterans before they no longer are Nebraska veterans but move to another state. Thank you, Mr. President.

FOLEY: Thank you, Senator Blood. Senator Stinner.

Transcript Prepared By the Clerk of the Legislature  
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Floor Debate  
May 15, 2019

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STINNER: Thank you, Mr. President. Members of the Legislature, I first want to thank Senator Kolterman for bringing this bill. He's worked very, very hard putting this all together. With listening to the Chamber, with listening to business, with listening to fellow legislators, I think he's put together a very good bill. I like AM1614 from the Revenue Committee, and certainly Senator Bolz's amendment strengthens this bill as well. I don't-- this is a head-scratcher for me, why this incentive program is competing with property tax. Folks, we need about 500,000 more people. We need to, you know, to kind of get that revenue base that we need to have to supply some of the services. And that's really the struggle we have in the budgeting process of fitting all these parts and pieces together with the revenue stream that we have today. Plus, with the incentive program, it brings in people, it brings in jobs. They pay taxes, they build buildings, they build houses. That's property tax. That's property tax relief, it expands the property tax base. That's how you get property tax relief under the current system. Why do we have incentive programs? And I do want to make a correction. I said \$800 million. I think I was reflecting on the applications right now that Senator Bostelman mentioned. Nebraska Advantage Act 2017 report was \$484 million of unearned credits, OK? Now, let's define unearned credits, OK? Let's just round it off to \$500 million. Again, Nebraska Advantage Act is still ramping up, people are still coming on. But people are being paid as well, so let's just say \$500 million is the right number. Only 80 percent of it will be paid, paid out. OK, so that's \$400 million. So let's take it over a 10-year period of time, maybe a 20-year period of time on that payout. Let's take it over a 10-year period of time, that's \$40 million. It's figured in the fiscal note, OK? And I'm going to reflect and turn your attention to this report that was passed out by Senator Kolterman to Chairwoman Linehan, members of the Revenue Committee. And I want to take you to page 5 of 9, if you will. And let's take a look at what we actually are doing as it relates to total revenue. Let's get a metric in this thing. How much should we as a state be spending on incenting and investing in the state of Nebraska? And under this analysis, if 1 percent, LB775, the Nebraska Advantage Act, is 2 percent. Now, Senator Bostelman made some great comments about the current Nebraska Advantage Act. It's being replaced by LB720 why? Because there were some things in the Nebraska Advantage Act that needed to be taken out. They needed to be considered. This is a more targeted program on higher-paying jobs and the right kind of businesses. So it's a, it's a big step up from where we are at today. It ramps up over a period of time. And if you look at variability and predictability, you can tell how one ramps down, one ramps up; and based on what they are putting in here, it's pretty much revenue neutral. I'm not going to stand here and

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

Floor Debate  
May 15, 2019

---

say it's completely revenue neutral, but it's as close as you get. You need to have an incentive program. We need to have an incentive program that's competitive regionally and nationally. We're in an arms race, folks. That's what this is all about. We have to have a robust incentive program in order to attract and retain the businesses that we can attract and retain. Now, one thing I like about this program is it's pretty simple to follow. The last program, I had a heck of a time understanding tiers and the application process was harder. The transparency was not there. But people did use the Nebraska Advantage Act. I mean, you can go through the mountain of businesses that have used the Nebraska Advantage Act.

FOLEY: One minute.

STINNER: So incentives are used. They do work. You have to have them, you have to have the competition. The numbers do work. We are going to invest every year, hopefully \$150 to \$200 million in incentive programs. That's not what the fiscal note said, it's more like \$140. Predictability is pretty close. I think if you look at the report-- and do look at the report. Look at the ramp up of revenue. General fund net receipts is ramping up, the incentive programs have stayed fairly stable. So that really gives you an idea proportionality about what we are talking about. Sure, we can throw out numbers and numbers, \$150 million, some big numbers. But that is an investment in the future of Nebraska, that's what we have to do in the state of Nebraska.

FOLEY: Time, Senator. That's time.

STINNER: Thank you.

FOLEY: Thank you, Senator Stinner. Senator Williams.

WILLIAMS: Thank you, Mr. President. And good afternoon, almost, all the colleagues that are here and still listening. I want to talk a little bit about following up on what Senator Stinner talked about that incentives work. And there's a lot of debate on the dollars, a lot of debate on the jobs. But I'm here to tell you that incentives work. I have a little over 20 communities in my legislative district, nearly half of them used a portion or all of the tools that have been put in the economic development toolbox by this Legislature, and operated with the Department of

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

Revenue, Labor, and the Department of Economic Development. But let me talk briefly about my community of Gothenburg, a community of 3,600 people. So not a large community. But when we really opened the doors to using these tools, the assessed value of our community was slightly below \$40 million. Now, the assessed value of our community is in excess of \$250 million. Forty million to \$250 million. One of those companies-- and anybody that wants to talk about property tax, one of those companies that you should know about is Frito-Lay. Pretty proud of the fact that Frito-Lay has two corn-gathering facilities in the United States. One of those is in Champagne, Illinois; and one of those is in Gothenburg, Nebraska. That facility, which cost an excess of \$20 million, and has certainly been back on the tax rolls for years at this point, provides a market for food-grade, edible corn, and purchases about 14 million bushels of food-grade, edible corn annually. We wouldn't have that if Gothenburg had not had the tools in the toolbox to recruit them, as opposed to having them go to competing states around this area. Those 14 million bushels of food-grade, edible white and yellow corn, the farmers that contract with them, the 120 farmers from about a 50-mile radius around Gothenburg, get about 75 cents premium on every bushel. That's an additional \$10 million each year pumped into the local economy. And as opposed to what some other senators have said, that has allowed the city of Gothenburg to lower their levy; that has allowed our school system to lower their levy over this period of time, and still provide high-quality education and high-quality services to the residents of Gothenburg because of using these tools. It's imperative that we have them. I have been very supportive and continue to be supportive of property tax relief. I have agreed to help as I can on LB289. And doing that is not mutually exclusive of supporting LB720. That is simply disingenuous, as I said earlier, to take that position and try to hold LB720 hostage to property tax. We need to grow our state. We have the opportunity to do it. That is our responsibility.

FOLEY: One minute.

WILLIAMS: Again, we do what's right. I would yield the balance of my time to Senator Kolterman.

FOLEY: Senator Kolterman, about 45 seconds.

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

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KOLTERMAN: Thank you. I appreciate it. I just want to correct the record. I know Senator Erdman said earlier that the municipalities probably aren't supportive of this. Well, I got news for you, Senator Erdman. Lynn Rex from the League of Municipalities is on board 100 percent. The League of Municipalities has voted 100 percent to support this bill. And so for that, that's pretty inaccurate to make a statement like that. I'm going to talk a little bit more-- I think I'm up next in the queue. I'm gonna talk a little bit more about the process, the attitude of what we are doing here, and the different amendments that are yet to come. But I appreciate the dialogue that we are having.

FOLEY: Thank you, Senator Kolterman. You are next in the queue. You may continue for 5:00.

KOLTERMAN: Thank you. Colleagues, we've heard a lot of perspectives today on incentives and what they can do, what they can do and can't do, and whether or not they actually grow our state. I'm going to tell you, I spent the last 30 years of my career in my own community working on economic development personally. And growing my state and my county, that's been the passion of mine since I can long remember. I want to share some thoughts and personal experiences about how business and growth expansion occurs, because many of you have never sat in front of a CEO, and don't understand how this works. We have a terrific group of state economic development professionals. And then locally, many of our counties and towns of local economic developers. These committed people are on the front lines, bringing projects to our towns. They work with the state's site selectors that companies hire to evaluate locations and incentives. We recently had this experience in Seward. There was a project called Project Superior, that's how they label them at the state of Nebraska. So project went to the state, the state looked at communities that might have infrastructure and sites to be a good fit, and Seward's Rail Campus was a potential fit. So our economic development group, the city of Seward put together a proposal for the company which went to the site selector. We didn't know who the company was, we didn't know where they were from. We knew generalities about the project and we knew their needs, and we knew we were competing with hundreds of communities around the entire United States. And we made the first cut. That put us in a group of about 20 or so locations. The site selector then came back and asked follow-up questions. We had the right answers to the questions, so then a site-selection visit was planned. The group came out to visit Seward. We got out community folks together again. We showed them the site, we

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

showed them the town, we showcased every positive thing we can possibly think of about Seward, Nebraska. The positive things that we could think of in Seward, Nebraska. We didn't focus on the negative. And after that was all over, we found out we're still in the running, competing against four other locations around the country. Another visit was planned. This time, we asked the Governor to come and help us be cheerleaders. We go through the presentation again and keep crushing the numbers with them. And through all of this, we have no idea who the company is or where they are from. That's the way it works. They are looking at other states. They are crunching numbers and looking at each incentive package that a state has to offer. And we landed that project. Turns out it was Scoular, who was looking to put an innovative technology-based manufacturing facility into their mix of products. A home-grown company, state of Nebraska, Scoular. So that will be almost a \$50 million investment and almost 100 good-paying jobs with benefits for my community, and also in partnership with the Lincoln area. The CEO came to town for the big announcement, we had a nice visit. He said, I love this expansion, and I'm really glad this expansion is staying in Nebraska. But that's not what made it happen. What made it happen is Seward, Nebraska, was competitive with other states when it came to the dollars and the cents, along with our incentive package. I wish it was all that easy. I wish companies would say, but we love Nebraska, we choose to expand here and do business here without looking at the bottom line. But that's, that's reality, colleagues. Margins are tight. Lots of states around us have a lot to offer, and we must remain competitive. I know property tax relief is a number one priority for many of you this session. In some cases, I know it's your only priority. I hear that. I know groups and organizations who are demanding property tax relief have encouraged many of you to refrain from supporting this bill until property tax relief is passed. What are you doing with that mindset is saying--

FOLEY: One minute.

KOLTERMAN: --we don't want to add new growth to our base. I want property taxes as well as any of you do. You can look at my record and see that I have voted for property tax relief time and time again this session. I helped vote LB289 out of committee and I am willing to vote it, through the floor. But if we don't continue to grow our base, if we don't grow our state with citizens, we're moving backwards. And with that, I would like to say we're not gonna-- I probably won't get another opportunity to talk today. But I really appreciate the dialogue that



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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

we're having. It's important that we talk about this. There are many amendments that are going to come. I can guarantee you this is coming back next week or maybe later this week. We do have the votes to bring it back to talk about this some more. If you have concerns, I have never told anybody we weren't interested in talking. We have been there all along, we have been very receptive. In fact, some of the additional amendments need to be heard.

FOLEY: That's time, Senator.

KOLTERMAN: Thank you very much.

FOLEY: Thank you, Senator Kolterman. Senator Crawford.

CRAWFORD: Thank you, Mr. President. And good afternoon, colleagues. I rise in opposition to the bracket motion and support of the amendments and LB720. And I want to commend Senator Kolterman, as many have been, not only for his hard work on this bill, but for his recognition that it's important that we keep debating and refining the bill. And he said that over and over, that it's not a finished product, he's open to discussion. I think that's a very important part of this process. And I think we have had some good debate over some of the issues today. I do think that LB720 is an improvement over the Advantage Act, so I would disagree with those who have said it's simply Advantage Act 2.0. I think there are important improvements that have been made, and I think there's been an intentional effort to consider what we have learned from the SRI report and what we have learned from our efforts with Economic Development Task Force to include some of those components in this bill. And some examples are, one of the issues is the importance of focusing on higher wages. That's in the bill. Another issue is the importance of focusing on work force development. And there are a couple parts of the bill that are important in terms of putting more emphasis on people as opposed to infrastructure and just simply jobs. But also the importance of job training, because we have a lot of jobs. We need people to be trained for those jobs and we need people for the jobs. And LB720 as it is, as it is structured, recognizes that job training is as important as well as just providing jobs. And so there are a couple of ways that LB720 addresses that. One is that there is an innovative part of LB720 that allows businesses to qualify for loans out of a revolving fund. And one of the reasons, one of the purposes of that loan is to allow a company to upfront invest in job training and repay that loan. And that's an

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

Floor Debate  
May 15, 2019

---

important part of allowing a company to come in, train Nebraskans, get them in those jobs quickly. Another part of the bill that focuses on job training is that job training is included as one of the allowable uses of the credits. And so it's an important part of incentivizing companies to consider job training as part of their economic development plan. And again, what we are hear over and over again is job training, job growth-- excuse me, work force development is a critical piece, and work force is one of our crises in the state that we need to put the most attention on. So I appreciate that this bill has a couple of components to try to really focus on training. And if we adopt AM1795, we'll be adding another component. I am fully in support of and hope that we are able to adopt the H3 program, as well, as another work force development piece. I do want to-- I also echo and Senator Blood already acknowledged the importance of the changes in this bill for cities. Since I have been here, multiple bills and efforts to try to improve the transparency of the Advantage Act for cities, and we've got some of those passed and some of those not. And so it was important to me that the bill improve those situations so cities have transparency and predictability. And the bill does that, and I'm very grateful for that work on the bill to make sure it addresses those concerns of cities. And again, our Sarpy County cities are in full support of LB720. I think one of our important debates that we are having is also about guardrails and caps. I think that's a very important discussion. And we have-- we did have that conversation. One of the challenges of our, the way LB720 is structured, is that they're performance-based contract, not contracts for a specific amount, which makes it difficult to have caps on the front end in terms of what you are providing. Because the amount of credits that someone gets in large part depends on their performance. And so it's we don't have that information when we are signing that first contract. So that's one of the challenges of putting a cap on this performance-based type of project.

FOLEY: One minute.

CRAWFORD: Thank you, Mr. President. So what can we do in terms of controlling the cost of this program and watching the cost of this program? Well, McCollister's amendment that focuses on having that group, having that committee look at these initiatives year after year, is an important part of that. And I think one of the important requirements is going to be that we are open to changing this year after year. And that's, I think, one of the problems with the Advantage Act. I think there was a reluctance to open the door, to allow any amendments on the Advantage

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

Floor Debate  
May 15, 2019

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Act prior, and we're going to have to have a different culture with LB720 that it's acceptable and appropriate to change it year to year. And what are some of the those levers that we can change if we decide we're being-- that we need to reduce costs and that too much-- we're letting out too many incentives? One is changing the types of companies. That committee may decide that we need to eliminate one of the categories of companies, restrict--

FOLEY: That's time, Senator.

CRAWFORD: Thank you.

FOLEY: Thank you, Senator Crawford. Senator Lindstrom.

LINDSTROM: Thank you, Mr. President. I just wanted to clarify a little bit. Senator Bostelman brought up, with regards to FTEs and capital investment, and I just wanted to point out under the Nebraska Advantage Act there's six different tiers. A few of those tiers don't require both FTEs and capital investment. So if a company is doing capital investment, it doesn't necessarily require them to do the FTEs. So I just wanted to clarify that there are six different tiers that companies can apply for in that regard. So I just wanted to clarify that. With that, I would yield my time to Senator Kolterman. Thank you.

FOLEY: Thank you, Senator Lindstrom. Senator Kolterman, 4:20.

KOLTERMAN: Thank you very much. Thank you, Senator Lindstrom. And also, thank you, Senator Crawford, for your hard work on this bill. I'm going to tell you a little-- again, a little story, because I have been involved in economic development. My daughter, as many of you know, Jessica, is pro-Nebraska and been involved in economic development as well. She and I were talking last night. I went home because I wanted to talk to her. And she was doing her work as we were talking, and she was going through the project that she's working on. It's a huge project for northeast Nebraska. Brings over 1,000 jobs and huge investment. But she was telling me, as she started to go through resumes. She was looking at the different resumes, she had been at a fair yesterday recruiting people to come to work there. And she said, as she looked through the resumes, she told me the ones-- there were a lot of them from Nebraska. There's a lot of

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

Floor Debate  
May 15, 2019

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applications already for that place, and they are going to fill that up, I'm sure. But she started talking about places that were coming from out-of-state Nebraska. So I'm just going to give you a little bit of that. Eden Prairie, Minnesota; Atlanta, Georgia; Manhattan, Kansas; Blacksburg, Virginia; Roxboro, North Carolina; Bellevue, Washington; Longmont, Colorado; Houston, Texas; Fort Smith, Arkansas; Tulsa, Oklahoma; Las Vegas; Baton Rouge. She reviewed 360 resumes over the last week; and of those, over 10 percent were from people that wanted to move to Nebraska from another state. Colleagues, that's what, that's what growing Nebraska looks like. We have to bring people in from other states. That project is doing it. In addition to that, that project is allowing young farmers to go back to their communities and invest in their communities. Our state can't afford to say to business considering growth or expansion in Nebraska that we just don't have an incentive package for you. We can't hang out a closed for business sign, we can't put our economic development professionals, our chambers of commerce, our cities and our counties that are recruiting new companies every day in that position to say: I'm sorry, we don't have anything to compete with right now. We have too much momentum going in this state. I think it's important that we support the amendments, other than the bracket motion. I hope we don't support that. But I think it's important we support the amendments, AM1795, AM1614, and LB720. There are some additional amendments that are going to be coming. As I have indicated, Senator Scheer and Senator Wishart have got some good amendments. And there are some more amendments that are still-- that I haven't had a chance to even look at. They're important, we need to discuss them. Senator Cavanaugh has an amendment on there. We need to talk about those things. I'm not afraid to talk about that on this floor. This is our bill. This is the state of Nebraska's bill. This is not my bill. I'm carrying this for the state of Nebraska so that we can be open for business, so that we can continue to show a positive light that our state is here. We are here to be reckoned with as a state of Nebraska.

FOLEY: One minute.

KOLTERMAN: We need to carry that positive momentum forward as we go into the future. I believe LB720, with its amendments and the changes that we have made to it, do a wonderful job of changing LB775 and the Advantage Act into a more workable solution for our state. More accountable. And I appreciate the very good dialogue that we have had today. And I look forward to the next three hours as we get, as we bring this bill back. Thank you very much.

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

Floor Debate  
May 15, 2019

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FOLEY: Thank you, Senator Kolterman. Senator Groene.

GROENE: Thank you, Mr. President. I think what the public is seeing here today and yesterday is finally the frustration of the taxpayer, the citizens boiling to the top. They want tax relief. They are tired of the well-funded lobby and the money that they spend on elections and outside that door, the glass doors. And they continue to get their way and the average citizen does not. They want property tax relief. But I stand as a frustrated taxpayer, and the ones keep sending on my LB289, why are you raising taxes, cut spending? Well, I got a question. Customized Job Training Act for the employer applying for job training, I thought employers trained their own people, didn't need tax dollars to do that. But then I looked at the budget. University and state colleges, I'm using 2020-2021 numbers, \$670 million. Higher ed student aid program, \$7.7 million. State aid to schools, \$1.45 billion. Special education, \$231 million. Aid to community college, \$102 million. Aid to ESUs, \$13.6 million. High Ability Learner program, \$2.3 million. Early childhood programs, \$8.6 million. That adds up to \$2.80 billion, it's 44 percent of the total appropriations. Now, a question to our education establishment and to this body is, what did they do with the first \$2 billion we gave them? We didn't give them the skills to go out and get a job? We didn't teach them to read and math that they can go out and get a job and they can easily adapt to the new conditions of the employment they took? Forty-four percent of our budgets. What did they do with the first \$2 billion, that we have to retrain people after they went through preschool; public education for 12, 13 years; college? And now we've got to have more money to retrain them again? What did you do with the first \$2 billion? This is foolishness. This is just a tax break, with most companies will train their own people. I got to tell you a story. When I was a senior in high school, I was pretty good in track, but I had to drop out because I had to get a job so I could go to college and pay my own way. Went over to this place, Smeal Manufacturing in Snyder, and I applied to weld, to be a welder, because that's what paid the best there. Got in line with some other kids. First kid in front of me flipped his helmet down and he sat there, and the guy says, what's wrong? He says, I can't see anything. And he says, well, you go over to shipping. I flipped the helmet down, I knew what a welder was. You got to have the weld before you can see. I got-- next day, I was a welder. I trained on the job, nobody gave them extra money. I trained. They trained me. Why am I as a taxpayer, this work force-- work force development is a phony term as a tax break for certain companies who want me and you to spend more money on education when we already spent 44 percent of our total budget. I didn't even throw in that 60

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

Floor Debate  
May 15, 2019

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percent to 70 percent when you throw in the ESUs and you throw in the community colleges, of our property taxes go to education too. And we have failed so miserably, that when somebody hires them we got to retrain them. If they don't have the basic skills to learn. Basic skills of education is this. That's what a liberal arts education is: That you learn to teach yourself. That you can read so well that you no longer need a teacher. That you can adapt to the circumstances because you know basic math. That's what it is. They are coming out so dumb, we got to retrain them when they go to jobs and we to pay the employer to do it.

FOLEY: One minute.

GROENE: Is that what you are telling me? Forty-four percent of our budget, and here's more money for more education. What did you do with the first \$2 billion, education establishment? What did you do with it? That's my question. But I don't blame them for this. They are not involved here. This is just another tax break that, hey, it sounds good. Let's hide behind education and get a tax break. That's what this is. Come here, hire our people. Bring your people, we'll give you a tax break. But my God, you're the one that profits from it. You pay for their education, not me, not the taxpayer. Let's cut their taxes so they want to live here, so they can buy a house, that employee. That's what we need to be doing here, make sure they can afford their mortgage. That's what we need to be doing here. Cut their tax burden so they want to live here. Thank you, Mr. President.

FOLEY: Thank you, Senator Groene. Speaker Scheer.

SCHEER: Thank you, Mr. President. We have reached the allotted time on this for its first three hours. We will move forward on the agenda after the lunch recess. Thank you.

FOLEY: Thank you, Mr. Speaker. Items for the record, please.

CLERK: Mr. President, the Appropriations Committee reports LB481 to General File with amendments. New A bill, LB481A by Senator Stinner. (Read by title for the first time.) New resolution, Senator Vargas, LR136. That will be laid over. LR137, LR138, LR139 are study

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Floor Debate  
May 15, 2019

---

resolutions. An amendment from Senator Briese to be printed to LB397. Senator Geist would move to recess the body until 1:30.

FOLEY: Members, you heard the motion to recess until 1:30. Those in favor say aye; those opposed say nay. We are in recess until 1:30.

RECESS

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

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

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

ASSISTANT CLERK: Mr. President, I do. Amendments to be printed to LB720. Those amendments are from Senator Groene, Chambers, Vargas, Matt Hansen, Scheer, and Friesen. That's all I have at this time.

FOLEY: Thank you, Mr. Clerk. Members, pursuant to the agenda, we'll move to the 1:30 item, General File, 2019 committee priority bill, LB686. Mr. Clerk.

ASSISTANT CLERK: Mr. President, LB686 introduced by Senator Lathrop. (Read title.) This bill was introduced on January 23rd, referred to the Judiciary Committee. That committee placed the bill on General File with committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Lathrop, you're recognized to open on LB686.

LATHROP: Thank you, Mr. President, and colleagues, good afternoon. I am going to open on LB686. This was actually a bill that I introduced into the Judiciary Committee. As you all know, we have a statute that says there will be a corrections overcrowding emergency declared by the

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

Governor if by July 1, 2020, we do not have the census in the Department of Corrections below 140 percent of designed capacity. LB686 would have provided an opportunity for the Department of Corrections to have, what I call, the soft landing. If they don't make 140 percent, then they have to get to 140 percent. They have a little more time to get to 135 and it's stair-stepped down to 125 percent of designed capacity. Currently, if we don't get to 140 percent of designed capacity, they are to-- or the parole board is to get the population down to 125 percent if that can be done safely. The department came in and opposed that bill. I, for the life of me, don't understand why they opposed that bill but I'm not going to make them take a soft landing, so that's no longer part of this bill. And when I introduce the committee amendment, I'll go through the elements of this bill, the bills that we've incorporated into what we might refer to as a Christmas tree bill, priority coming out of Judiciary Committee trying to address the Department of Corrections issues. I thought I would take this opportunity to give you a little background for those of you who have not served previously, or long enough to remember back to 2014 when the Department of Corrections made the front page. When the overcrowding problems became evident and the work that was done by the LR424 Special Investigative Committee, and I'm not going to take you through all the detail, but I do want to let you know how did we get to a place where we have this overcrowding problem. And I'll quickly at the beginning of this acknowledge that it was not-- this administration was not involved in this process. Okay? So let me take you back to 2006. The administration requested a report and it was a facilities report. What do we need to do as a department to accommodate the projection in increase number of inmates. So that was a two-piece study that was done and it projected the inmate population into the future. And I'm going to tell you, it was pretty much on the mark. That report done in 2006 projected the problem that we have today. And it then made a recommendation about how many beds do you need to build in order to address that problem so that you don't have the overcrowding problem that we are experiencing today. That number was fourteen hundred beds. Okay? So this report done in 2006 said, this is what your population is going to be, and it's pretty much what we have today, and you're going to need fourteen hundred beds. That was presented to the Governor on a number of occasions. A number of occasions in 2006 and in the years that followed, the Governor met with the director of Department of Corrections and by the way, we know this only because we subpoenaed the records when we did the LR424 report and investigation and we could see all of this stuff that happened while the Legislature was being assured that there was no problem. While the Legislature was being



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Floor Debate  
May 15, 2019

---

assured that there was no problem, the administration elected to go with what they called the no-cost option. We're not going to spend \$150 million to build fourteen hundred beds to address what is certain to be an overcrowding problem. And as predicted, we are now at 160 percent of capacity-- 160 percent of capacity. That is by any measure an overcrowding emergency. The statute used to say the Governor may declare it, now we've changed it. In 2015, some of you were here for that, to shall declare an emergency if we don't get the population below 140 percent of designed capacity. That LR424 Committee that I chaired, Senator Chambers also served on that committee, addressed a number of different issues. It started out just looking at Nikko Jenkins terms of confinement, how this guy ever got out directly from restrictive housing out into the community, how come he didn't get medical care or the psychiatric care he asked for, and he promised to go out and kill people and left with good time in his pocket and essentially straight from restrictive housing. So we looked at restrictive housing too. We have problems in the state with restrictive housing. That committee recommended that we get a handle on restrictive housing and restrictive housing is going in the wrong direction. Our reliance on that, in my judgment, is out of modern trends in corrections. More and more corrections is recognizing that restrictive housing is a form of torture where you are confined to a cell the size of a bathroom, your bathroom in your house, for 23 hours a day. The amendment will talk about restrictive housing, addresses just a discrete part of that. It's not intended to be a wholesale fix of the problem with restrictive housing, but it is a practice that needs to be reformed in a way that is broader than the amendment that I'll bring you today. The problem with overcrowding, as you probably heard me say in the past is, you have a number of people coming in and if you don't have them leaving the facility at the same rate, or as fast as they're coming in the front door, you're going to pile people up and that's what has happened. The Council of State Governments worked on a program. You tried to pass or did pass, many of you, LB605 that was intended to provide some reforms for some of the lower class felonies, the Class 4s. There are now many of those people are doing their time in county court, many of them are getting probation. Unfortunately, that hasn't affected the trend numbers which are still on the increase. In other words, our numbers are getting worse instead of better after the passage of LB605. So we do have a number of issues that need to be addressed in order to get to a solution for the overcrowding. The reality, colleagues, is that most of the real solutions are going to be sentencing reform. We either build our way out of this, or we provide some kind of sentencing reform. And when we talk about sentencing reform, that's where people spend less time

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Floor Debate  
May 15, 2019

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incarcerated but they get more services, more programming, perhaps they spend more time on work release so that they have an opportunity to establish themselves, get out, be successful, not reoffend, and pay taxes. That effort has run up against, I will tell you as the committee chair, that effort to do sentencing reform has run up against people who are in the old model of law enforcement. The county attorneys, police officers, Attorney General, they don't like the idea. In my judgment or my take on it is they don't want to see sentencing reform because it looks too easy to say, you're soft on crime. So this amendment is not going to have sentencing reform that probably would ultimately be necessary if we're going to address overcrowding without building more facilities. This Judiciary Committee heard 143 bills this year. I'm very proud of the work that committee did. They were diligent, they asked great questions, and they put a lot of thought into each bill that came before the committee. Many, but not all of those bills, that 143 bills, addressed some aspect of the Department of Corrections. I'd like to make a distinction between the symptoms and the underlying problem. The underlying problem, two of them at the Department of Corrections, one is staffing, the other is overcrowding. From those two--

FOLEY: One minute.

LATHROP: --central issues, there are a number of symptoms that arise. The overuse of restrictive housing for example, not having sufficient medical care, or other issues that come up. Getting people proper programming in a timely fashion, getting people parole eligible by their parole eligibility. Those are things that are symptoms of the underlying problem of overcrowding in my judgment. And with that, I'll encourage your support of LB686 and be prepared to open on the amendment.

FOLEY: Thank you, Senator Lathrop. As the Clerk indicated, there are amendments from the Judiciary Committee. Senator Lathrop, as Chair of the committee, you're recognized to open on the committee amendments.

LATHROP: Thank you, Mr. President. Once again, colleagues, I'll go through the committee amendment and you will hear me talk about the underlying bill. If you look at the committee statement, you'll be able to kind of see what we have incorporated into this amendment and where it came from. LB686 is a Judiciary Committee priority bill that's been used as a vehicle

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Rough Draft

Floor Debate  
May 15, 2019

---

for several corrections-related bills. The Judiciary Committee heard LB686 on March 27th and advanced both the bill and the committee amendment, AM1737, on a 7-0 vote with one member present and not voting. AM1737 strikes the original provisions of LB686 and amends portions of seven bills into LB686. Sections 1 through 3 of AM1737 contains provisions from LB233 introduced by Senator Wayne. As amended, LB233 creates the new offense for intentionally taking an electronic communication device into the correctional facility or providing the device to an inmate. An electronic communication device can be a cell phone or other item that transfers data or communicates with electronic devices. The section also prohibits an inmate from procuring or possessing an electronic communication device. The penalty for a violation is a Class 1 misdemeanor and, importantly, can result in seizure of the phone or electronic device. There are exceptions that are found in the amendment. Section 2 and 6 of the amendment makes changes to postrelease supervision. The required term of postrelease supervision on a Class 4 felony would be removed. Under current law when a judge revokes postreleased supervision, they can sentence the defendant to a term of incarceration equal to the remaining time on their term of postrelease supervision. The amendment would allow judges to sentence the defendant to a term equal to the length of their original term of postrelease supervision. These provisions were originally contained in LB684, a bill I introduced, and LB90 introduced by Senator Wayne. This is a problem. We're making postrelease supervision discretionary at the discretion of the district court and that's necessary as we were told by the county attorneys. Section 4 of AM1737 would provide additional flexibility for the Department of Health and Human Services to contract with outside facilities and providers to treat criminal defendants determined to be mentally incompetent to stand trial. Under a current law, many of these individuals are waiting in county jails for a bed to open up at the Regional Center. These provisions were originally found in LB240 offered by Senator Matt Hansen and I'm just going to suggest, colleagues, if you are incompetent to stand trial, currently you have to sit in the county jail for on average, on average, 100 days waiting for a spot at the Regional Center, which is the only option available for restoring competency, which is the basis for Senator Hansen's LB240. Section 5 and 7 through 13 would give judges the option to defer judgment after a finding of guilt in criminal cases and place certain defendants on probation. If the defendant satisfactorily completes probation, the judge can dismiss the case. If the defendant does not satisfactorily complete probation, the judge can enter a judgment and impose any sentence authorized by law. These provisions were originally contained in Senator Wayne's LB91. Colleagues, this is an important part of this

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Rough Draft

Floor Debate  
May 15, 2019

---

package inasmuch as there are communities or judicial districts in the state that don't have problem solving courts, I would refer to this as sort of a poor man's problem solving court. This will allow the judge to impose significant terms in a probation with the threat of a sentence if it's not successfully completed, and with the carrot that they can avoid having a conviction if they successfully complete the deferred sentence process. Section 14 of AM1737 incorporates a portion of Senator Vargas' LB739 addressing restrictive housing issues. The committee amendment contains a portion of LB739 that prohibits members of a vulnerable population from being placed in restrictive housing beginning in October 1 of this year. The vulnerable population includes inmates under the age of 18, pregnant inmates, or those with a serious mental illness, a developmental disability, or a traumatic brain injury. The Department of Correctional Services will develop rules and regulations addressing the risk for vulnerable population inmates. There is an exception that permits vulnerable population inmates to be assigned to something called immediate segregation to protect themselves from staff or other inmates. As I said in my opening on the bill, this is a very important piece. It is not fixing our problems with restrictive housing, wholesale, but it is taking an important part of the problem and addressing it with this amendment that started as a Vargas bill. Finally, Section 15 incorporates an amended version of LB262 by Senator DeBoer. LB262 as amended modifies a long-term restrictive housing work group membership by adding a member of the Judiciary Committee as ex officio nonvoting member and by replacing four members appointed by the Governor with six members appointed by the Exec Board of the Legislature. These six members include at least one person previously incarcerated in Nebraska, and others who are mental health professionals employed in a restrictive housing unit, are advocates for inmate rights, or involved with Nebraska correctional issues. The measure also requires the director to meet with the work group prior to issuing an annual report on restrictive housing and also terminates the work group December 31, 2021. I would encourage your support of AM1737, ask you to support the amendment, and move LB686 to Select File for additional consideration. Colleagues, I am happy to answer any questions you have with respect to any of the provisions of this amendment. Those individual senators who have offered bills that have been incorporated, I think, are likewise happy to answer questions. And with that, thank you, Mr. President.

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

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Rough Draft

Floor Debate  
May 15, 2019

---

ASSISTANT CLERK: Mr. President, Senator Friesen would move to amend with AM1859.

FOLEY: Senator Friesen, you're recognized to open on AM1859.

FRIESEN: Thank you, Mr. President, and colleagues. I'll thank Senator Lathrop for allowing me to do this. I'm just going to put this amendment up there. I want to talk about it a little bit and then I will pull the amendment. This is basically an LB376 which I introduced into Judiciary and it didn't make it anywhere and I'll let Senator Lathrop explain the reasons of that. But what happened here was there-- I think this dates back probably to LB605 and when we started to put more short-term prisoners into county jails where they served their sentences. And so there was a prisoner was sentenced to a local county jail and had mental health issues, an ongoing problem I believe, and so the county staff there at the jail were not able to-- they were not trained to handle someone like this. They were not able to deal with this and what happened was that prisoner attacked a sheriff and in the end, ended up in the Women's Reformatory in York for a couple of years. And so, to me, this is one of those things where if we had a mental health facility where we could take people like this, we could have prevented someone being in our judicial system. And I think it's rather obvious that we a mental health issue, and right now out in the rural areas, especially, we have nowhere where they can take prisoners like this. The nearest would be Lincoln here and they're always full. There's a waiting list to get in. I think he referenced that. We have to start looking for some other facility out there. We used to have some in Hastings, we used to have one in Norfolk. We have closed those facilities and we have not had a place now where they can take patients like this. And there's-- this is just one small example and it's just from one county. This wouldn't happen very often, but what it would allow the sheriff to do, is to take that prisoner for safekeeping in a facility that was capable of handling that prisoner. They would pay for the daily stay there, the county would pay the full cost of it, but it would be for the safekeeping of-- the safety of the prisoner, the staff, and everyone else that they are in a facility that is trained to handle people with mental health issues. So it was a simple bill but, again, we have no place for them to put them. With that, I'll yield the rest of my time to Senator Lathrop.

FOLEY: Thank you, Senator Friesen. Senator Lathrop, 7:30.

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Floor Debate  
May 15, 2019

---

LATHROP: Thank you, and Senator Friesen, thank you, for bringing this topic up. My understanding is he's going to pull this amendment after some conversation. Here's the issue. If you're a small town jailer and somebody comes in and they're coming down off some drugs, or they have-- they're demonstrating violent tendencies related to a mental illness, if they're a felon, you can take them down to the Department of Corrections or over to the Lincoln Regional Center if you can get in. If that person is a misdemeanor, so they've been charged with disorderly conduct and now the jailer in small county Nebraska, small population county Nebraska, has somebody that's in the jail freaking out, whether it's coming off of drugs or having a mental problem, and they're not equip to handle it. You don't even have to imagine very far. That's easy to understand. Senator Friesen's bill would say these people get to come over to the Department of Corrections and take up one of the beds that the director had to create because he didn't have access to enough beds over at the Regional Center. The Regional Center, I have to tell you, that needs some attention. The Regional Center needs some attention, people are waiting 100 days to get in there to have their competency restored. And many of them, as we heard from Lancaster County, sit in solitary confinement while they wait their 100 days to go into the Lincoln Regional Center to have their competency restored and so that you understand that's a guy that doesn't know a judge from a defense lawyer. Senator Friesen wanted to bring his misdemeanants from county jail down to the Department of Corrections and understandably the Department of Corrections said we don't have capacity for them. His alternative is to take them to the Regional Center where they're going to say we don't have room. Colleagues, if you take nothing away from today, our criminal justice system, our corrections system is getting clogged up with the mentally ill. Today, we're going to talk about restrictive housing and people with serious mental illness. These people need mental health care. Out in Sarpy County, Senator Friesen, they're trying to establish a crisis center where law enforcement can take somebody who was what we call an EPC, an Emergency Protective Custody guy. They're having some dust up about where they're going to put it, but I think that is going to be a model for the state if they can successfully accomplish that in Sarpy County. There is a great, great need particularly in western Nebraska where I'm going to say west of Grand Island for beds for people who are experiencing these psychotic breaks, coming off of drugs, having serious mental illness issues. And while I can't support AM1859, I want you to know that I emphasize completely with the county jailers. I understand their frustration. We have a Regional Center system that we amputated on the promise of community services that never came through and now these people that could be

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Rough Draft

Floor Debate  
May 15, 2019

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coming off of methamphetamines, or having mental problems, are now become the problems of the county sheriff, the county jailer, the city police out in western Nebraska, and they need some relief. It's just not going to come in LB686, I'm afraid. With that, thank you.

FOLEY: Thank you, Senator Lathrop. Debate is now open on LB686 and the pending amendments. Senator La Grone.

LA GRONE: Thank you, Mr. President. I rise mostly in support of AM1737. Senator Hilgers and I have been working extensively with Senator Lathrop and others to try to come to an agreement since the vast majority of this, there's widespread agreement on. There are two issues remaining, one of them we have agreed to. Senator Lathrop and Senator Hilgers and I and Senator DeBoer have agreed that on Senator DeBoer's piece to avoid a constitutional issue, the long-term restrictive housing working group members will be-- remain appointed by the Governor to avoid a separations of powers issue. And there's another issue that we are working on in another piece of the bill that we are hopeful we can to come to an agreement on before Select File. So I will support advancing this today in the hopes that we can reach an agreement on that remaining piece before Select File. Would Senator DeBoer yield to a question?

FOLEY: Senator DeBoer, would you yield, please?

DeBOER: Yes.

LA GRONE: Senator DeBoer, you indicated you wanted to say something about your piece so feel free to do so.

DeBOER: Yes, thank you. So not so much a question. That was my fault. Sorry, I just-- I didn't know want to say.

LA GRONE: What would you like to say? There's the question. [LAUGHTER]

DeBOER: There you go. I just wanted to say that we have come to an agreement on this piece. I do want to say that maybe reasonable minds could disagree about the constitutionality question,

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

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but I'm certainly happy to make the change and I would urge everyone to vote for an amendment which would do that as well.

LA GRONE: Thank you, Senator DeBoer. Again, that amendment will come on Select File hopefully with another-- again I will support advancing this at this point in the hopes we can reach an agreement on that one remaining piece before Select File. Thank you, Mr. President.

FOLEY: Thank you, Senator La Grone. Senator Pansing Brooks.

PANSING BROOKS: Thank you, Mr. President, Mr. Lieutenant Governor. I rise in support of LB686, but I believe that this package does not go nearly far enough to fix our overcrowding crisis. This body has continually kicked the can down the road when it comes to addressing some of the issues at the root of the overcrowding problems. With that, I want to say, Senator Lathrop has worked hard with PRO and the executive branch to find common ground. And I appreciate that effort, but this compromise does not go nearly far enough. One bill that I think is missing from this package is the one-third rule. And I brought it this session and I hope we pass it next year, and that's LB131, which would reestablish the one-third rule in sentencing. And I'm going to talk about a number of things that are missing from this bill-- this package that would help us out. The one-third rule provides that a minimum sentence not be more than a third of the maximum sentence for a certain class of felonies unless a mandatory minimum is required by statute. The fiscal note in 2018 showed that it could save our state millions of dollars annually if we reinstated this proven sentencing initiative. I first brought this bill in 2015 to restore the element of sentencing policy that was previously in place in Nebraska from the 1970s to the 1990s and worked effectively. I continue to believe that this bill should have made it into the LB605 package in 2015 because it was actually among the CSGs, the Council State Government's recommendations. But people at the time said that they thought LB605 would be enough. Well, it hasn't been enough. In fact, the numbers are far worse today than they were then. I want to offer some background on the one-third rule. In the 1970s the Legislature began to change the correctional system in Nebraska to a model that was more treatment and rehabilitation focused. The Legislature amended the criminal procedural code to provide for sentencing framework that allowed for those inmates who were sent to prison to work toward reforming themselves and assimilating back into the community after being rehabilitated once



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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

they're released from incarceration. Remember, colleagues, about 96 percent of the people that we put in prison are going to come out into our communities. The Legislature developed the one-third rule which provided the minimum sentence imposed could not be more than one-third of the maximum possible sentence for the category of penalty available. This one-third rule provided that the offender would have time and opportunity for rehabilitation in the prison system before being paroled and would also ensure meaningful time for the offender to be supervised once paroled into the community. Inmates have the incentive to actively participate in constructive rehabilitation programs within the prison system so they were better candidates to be paroled when they became eligible. Additionally the one-third rule allowed judges to impose a significant maximum sentence for offenders to be supervised while on parole, or incarcerated, should such inmates not comply with the terms of their parole conditions. The one-third rule was the law in Nebraska from about 1971 until 1993 when it was moved-- when it was removed. We have searched the legislative history and it provides little explanation for why that particular rule was eliminated and from what I have heard, it is pretty clear that the one-third rule was removed surreptitiously in an omnibus bill. To bolster that conclusion, I would add that we have been unable to locate any record of a public hearing or discussion on the floor of the Legislature concerning the removal of the one-third rule. Now move forward 25 years and Nebraska has--

FOLEY: One minute.

PANSING BROOKS: --the second most overcrowded prison system in the country. Judges are imposing sentences with maximum minimum sentences that are nearly identical leaving very little time for meaningful parole which results in more frequent jam outs. According to CSG, in fiscal year 23-- 2013, 17 percent of people newly admitted to prison received a sentence with a parole window of one month or less or no opportunity at all. The slim or nonexistent parole windows of these flat sentences ensure that these individuals would leave prison without supervision when released. In fiscal year 2013, 57 percent of flat sentences were for a term of one year which equates to a six-month length of stay in prison after good time is applied. Especially considering 95 percent come back into our community, we should be concerned with that short window of time for inmates to become parole ready. And I'll bring more to the body after this.

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

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

CHAMBERS: Thank you. Mr. President, members of the Legislature, this is not the bill that I would have offered. This is not a bill that ordinarily I would support. Things that I think ought to be in it, are not. Things which don't amount to much, are. This is what happens when the Legislature feels the need to placate the Governor's office, the county attorneys, and those who don't want to see anything change. I have a lot of respect for Chairman Lathrop. He's meticulous, thorough, and a diplomat. A diplomat. In diplomatic circles, if a diplomat says yes, that means maybe. If a diplomat says maybe, that means no. If a person says no, he or she is not a diplomat. So these kind of bills require a lot of pussyfooting. The philosophy can be found in that song by the Rolling Stones, you can't always get what you want. Then you might add, well, you get what you can or take what you can. I'm not going to have much to say on this bill. I'm like a lightning rod. The Governor has a hatred for me. A pathological-- not just didn't like-- hatred. And I will not be the basis for undermining a bill such as this by insisting on the inclusion of legislation that I offer. Next year is my last year in the Legislature and things will be different, being diplomatic for a change. You'll find out what those differences are when the time comes. I can explain what Senator Pansing Brooks eluded to, to show the treachery of those in the executive branch. Don Stenberg was the Attorney General. He was working with a then-Senator named Carol Pirsch. There was what was called an omnibus bill. It should have been ominous. But that's where any number of subjects although related are put into one bill. And because numerous statutes are amended and some outright repealed, what is called the repealer statute that you see-- section at the end of every bill, when something is amended, it sets out those sections. Well, the sections that encompass the one-third rule were put in the repealer clause. That portion of the bill was not discussed in committee. There was no hearing. Nobody read the repealer clause. Nobody reads the repealer clauses now. I doubt that anybody has read the repealer clause for this bill. So, that's how that one-third rule was repealed. When it was called to the attention of the Senator Pirsch and Don Stenberg, and I'll see if I can find some of the articles, Stenberg said he was not about to undo what they had succeeded in tricking the Legislature into doing. That is the lack of integrity that often is encountered when you try to deal with these so-called law and order people. They threaten and frighten senators by saying, if you push strongly for the types of changes--

FOLEY: One minute.

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

CHAMBERS: --which would modify the system in a meaningful way, they will say you're soft on crime. The Governor has said that about me and frightens some senators by saying if you vote for that, I'll say you're voting for Chambers, you're giving the message to criminals that you're soft on crime. That's what kind of dishonest person that person is. So, the fact that I'm not saying much on this bill doesn't mean that I'm opposed to it, but I definitely do not see it as much in the way of reform. You can vote for this bill and not worry about any comeback from anybody. I don't know what in the world there could be that Senator La Grone and whoever his hench persons are, find objectionable in the bill, but I'll let those who feel they can operate and trust those kinds of people do what it is they can do. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Vargas.

VARGAS: Thank you very much, President. Colleagues, I stand in support of LB686. I stand in support of AM1737. I know AM1859 will be withdrawn. I do support Senator Friesen as a person, but not that one. So AM1737 includes LB739. This bill prohibits the Department of Corrections from placing vulnerable populations in restrictive housing. Some of which I'm going to say is going to be touching on some of the main points that Senator Lathrop brought and I do want to thank him for his work and his leadership in the committee and help with this work. Placing vulnerable populations in restrictive housing, this population includes inmates who are 18 years of age or younger, pregnant, or diagnosed with a serious mental illness, a developmental disability, or a traumatic brain injury. As this body may be aware, restrictive housing is the term that our statutes and the department used to describe what many others would call solitary confinement. In the last several years our Legislature has demonstrated great leadership by passing a number of bills intended to enact meaningful significant and comprehensive reform to address the overcrowding problem in our prison system. Now the department's excessive use of restrictive housing already referenced by Senator Lathrop is directly related to the overcrowding problem which is the inherent reason for this bill. The Legislature passed LB598 in 2015. This ultimately led to some reform in the use of restrictive housing. However, the frequency and the use and length of inmates placed in restrictive housing is still troubling high. This bill seeks to provide further reform. Now members of a vulnerable population may still be designed-- assigned to immediate segregation for their own protection or the protection of others if necessary. The bill also allows the department to develop secure mental health housing to serve

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

Floor Debate  
May 15, 2019

---

the needs of members of the vulnerable population in the event such inmates need to be removed from the general population. The distinctive treatment of members of a vulnerable population in LB739 is an adoption of a recommendation from experts who have examined our prisons, experts that we ourselves have brought in so that we can glean from their expertise. In 2016, the Vera Institute of Justice, an independent nonprofit national research and policy organization focused on prison reform, looked at our state prison system. In its report the Vera Institute noted that historically disciplinary segregation was overused, typically for low-level violations. Notably, the Vera Institute strongly recommends that the department, quote, unquote, enact firm policies that prohibit placing youth, pregnant women, and people with serious mental illness in any form of restrictive housing. Now, decades of research and the repeat of findings of courts support the exclusions of individuals of mental illness from restrictive housing due to their unique vulnerability to its harms. Federal and state courts have repeatedly held that placing individuals with serious mental illness in such conditions is cruel and unusual punishment under the 8th amendment to the Constitution. Now for this reason, prisoners with serious mental illness should be excluded from restrictive housing. Professional researchers also clear about the psychological harms to youth by being placed in solitary confinement. The exclusion of those who are 18 or younger from being placed in restrictive housing in the adult criminal system is consistent with many of the reforms as Senator Pansing Brooks has championed and that this body has supported in recent years. Additionally as a member of the Appropriations Committee, and this is very important, I am especially interested in the cost saving benefit that reduced our reliance on restrictive housing will have for our state. Saving money is a good thing. Several other states who have reduced the reliance on restrictive housing have seen that it is much more cost effective to limit the amount of people and time in restrictive housing. A recent study in Mississippi showed that their roll back of restrictive housing resulted in saving-- wait for it -- their taxpayers \$8 million a year. Colleagues, I urge your adoption of AM1737 and the underlying bill and I'll just say, Senator Lathrop is completely right. This is not all the reforms that are needed. We are overrelying on it. This is a step in the right direction which, I think, is prudent, pragmatic type of thing that we should support. With the remainder of my time, I will yield the remainder of my time to Senator Pansing Brooks.

FOLEY: Thank you, Senator Vargas. Senator Pansing Brooks, half minute.

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

Floor Debate  
May 15, 2019

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PANSING BROOKS: Uh-huh, okay. Well, I guess I just want to stand and say again I support LB686 and AM1787. I appreciate Senator Lathrop's work. It has been significant. I, of course, have other ideas that I want to get on the record that I think are important, that we're missing some of the points on. And Senator Lathrop, you know, in trying to find the good has to work with a number of different groups. So I'm just going to add some additional points that I wish were in the package. Thank you, Mr. Lieutenant Governor. Thank you, Senator Vargas.

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

LATHROP: Thank you, Mr. President, and colleagues. I feel like I have to explain myself. We heard a great number of bills in Judiciary Committee dealing with one symptom or another of the two primary problems over at the Department of Corrections. Primarily it was the overcrowding piece, a lot of them. And there were a lot of ideas that were brought to the committee. I have to say, I'm a little more pragmatic. It's about what I can get passed and not what I think is the fix. I'm going to make a comment about the fix. I don't think we address our overcrowding problem until we do sentencing reform. Okay? I'm going to say that again. I don't think we solve the problem with overcrowding until we do sentencing reform. That can take the form of Senator Pansing Brooks's bill on indeterminate sentences, it can take the form of eliminating mandatory minimums. There are a lot of things that we could do. I have to tell you that part of our problem is, part of our problem is, is that it's hard to move around in a Department of Corrections that is so overcrowded. So, if we're going to deal with this, most of it's about trying to get people ready for their parole eligibility date. Now, Senator Pansing Brooks indeterminate sentence would incent people to get parole ready by their parole eligibility date. We got guys that can't get to programming. The programming may be offered at the Lincoln Correctional Center or, pardon me, at the Lincoln Penitentiary and they're over at Tecumseh and they can't get to the programming they need to. There are a lot of significant problems at the Department of Corrections. We're dealing with a handful of them in this bill and I'll be the first to acknowledge it. I'll also say that I'm trying to move those bills that I think will move because I'm confident we are as a state still stuck in the mindset that the more time you give somebody, the more justice that's been dispensed. And the modern-- other states are doing this colleagues, they're saving money and having better outcomes with sentencing reform that includes more people getting parole after they've had adequate programming. If we had people that were

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

Floor Debate  
May 15, 2019

---

getting all the programming they needed, they were afforded an opportunity before the parole eligibility date to do some work release, go out into the community, start to establish themselves, we would have better outcomes. That takes an investment. Okay? Barely got the provider rates passed, or improved upon, for providers providing Medicaid services. Are we going to spend? I'd be happy to if we want to appropriate the money and build more capacity for programming, provide more programmers, get more mental health counselors. These are expenditures that need to be made, And I'm not criticizing the Appropriations Committee for a second because no one is asking them for. I might have a different package if this was my second year here. It's my first. I-- to be perfectly candid about it, I don't think sentencing reform is going to move through this body, nor is the investment in the programming that would be required so that the people could get their programming before their parole eligibility date. I think that the Judiciary Committee has been a great experience for me. I'm going to tell you that I do get tugged in different-- philosophically that committee is not homogeneous. Right? Not everybody thinks alike no matter what you might have heard. We have people that are right leaning--

FOLEY: One minute.

LATHROP: --and people that are left leaning and this bill represents what I think is a practical solution crafted from the bills that have been introduced. And with that, I would encourage your support of the committee amendment and the bill.

FOLEY: Thank you, Senator Lathrop. Senator Friesen.

FRIESEN: Thank you, Mr. President. This will be the last time I talk about this, but this-- the amendment I have kind of leads to another topic that we had in LR296 Committee that I served on this last summer. And it dealt with long-term assisted living facilities that had a high incidence of clients with mental health issues. So we toured facilities all across the state and what I saw, at least, and I think some other committee members if they want to join in they could, but we have to find a more restrictive housing for some of the people that we currently have on open campuses. There's a tremendous need for mental health treatment. When we closed the Hastings and the Norfolk facility, these people were turned out basically into the street and some of these facilities are obviously not up to par with what we would expect there. Some of

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

Floor Debate  
May 15, 2019

---

them are just downright almost unlivable. But if we close them, these people have nowhere to go. And if we don't start looking at in the future here, we're going to have just more people that end up in the prison system somehow, whether it's through a misdemeanor first, but then they end up later on, they'll end up in our correctional facilities because there's a lot of clients out there that are that. And they don't have access to treatment. We have seen that over and over, and it's not just an urban, it's rural areas also. And they're looking for places to put these people and they need treatment. And that is the biggest thing I think we saw is that there's just not facilities that can handle these. And it's kind of an open campus type set up and that leads for some of the clients it's great, for some of them, it's not. But again, I think they need access to more mental health treatment and I think we're really missing those facilities that we had in Hastings and Norfolk. And so with that, I will withdraw my amendment and I'll yield the rest of my time to Senator Lathrop.

FOLEY: Thank you, Senator Friesen. AM1859 is withdrawn. Senator Lathrop, 3:00.

LATHROP: Senator Friesen makes a great point. Again, I talked about this the last time he yielded me time. Colleagues, we need to do something about mental health. We need to do something about mental health. When we had the 424 Committee, I'll take you back there. We did an entire hearing on mental health. Our Department of Corrections, one-third of the people in the Department of Corrections, one-third of the people in the Department of Corrections have a serious mental illness on psychotropic kind of medications. These people are finding their way into the Department of Corrections because we closed the Regional Centers on the promise that people would receive care in the community that never materialized. What does happen is the people in the community are getting treated if they're not real big problems and the people who belonged in the Regional Center, no one wants to treat and so they're finding themselves in trouble. It's leading to criminal convictions and now we're filling the prisons with these people. We need to address this problem. We need to address this problem and address it, I think, next year. It requires either that we open up Hastings again or we open up some kind of an emergency placement type facility, much like what Sarpy County is considering right now, so these folks have somewhere to go. Otherwise, we're putting them in county jail. They hit a guard and now they're on their way to Lincoln, instead of going to a bed like they will establish in Sarpy County where you can take somebody in crisis. There's mental health people that are trained to deal with

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

Floor Debate  
May 15, 2019

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them, can medicate them, and help them through that crisis period. Very, very, very important and particularly an acute problem for folks out west of Grand Island. Thank you.

FOLEY: Thank you, Senator Lathrop. Continued discussion on the bill and the pending committee amendments. Senator Williams.

WILLIAMS: Thank you, Mr. President, and good afternoon, colleagues. I certainly rise in support of this legislation and appreciate all the work that the Judiciary Committee and in particular Chairman Lathrop has done. As many know, some of us in this body have been very involved with problem solving courts, understanding them, attending graduations and supporting them, and very pleased as we talked yesterday on our main line budget discussion that there are some additional dollars going that direction. There was some comment-- there was a comment made in Senator Lathrop's opening that I would like to have him yield to a question, if he would please.

FOLEY: Senator Lathrop, would you yield, please?

LATHROP: I'd be happy to.

WILLIAMS: Thank you, Senator Lathrop. You mentioned problem solving courts in your opening and suggested maybe that there is language in here that might create something called, or that you used the term poor man's problem solving court. I just want to have you have an opportunity to explain a little more what that is and be sure that this is-- in no way competes with our current commitment to problem solving courts.

LATHROP: I'd be happy to, and thanks for the opportunity. So Senator Wayne's LB91 has been incorporated in this committee amendment. It's called the deferred judgment. It's modeled after what they do in Iowa. We have problem solving courts, as you know, and these are people-- the problem solving courts, those folks that make it to the problem solving courts and they become participants are more of a high-risk person. They are supervised more closely. They require appearances before a district court judge to account for whether they're making progress staying clean, seeking employment, staying on whatever program they're on to get clean or to stay clean.



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

Floor Debate  
May 15, 2019

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A much different experience than what those folks in LB91, or the deferred judgment folks would be, I would anticipate in those jurisdictions that already have problem solving courts, this is not something that will compete with them but complement them. Deferred judgments under LB91, or Senator Wayne's contribution to this amendment, is completely within the discretion of the district court judge or the judge before whom the case is set. That judge can-- if they're a suitable candidate for a problem solving court, if they're high risk, if they have a difficult record, they can then go into problem solving courts. There are significant limitations on how you get into a deferred judgment situation. Generally, I would anticipate they would not be used for the more serious felonies that are encountered in the district courts, but we do have some jurisdictions, as you know, that don't have problem solving courts. And for some, that may provide an opportunity for these people to go through a probation prior to sentencing that would allow the district court, or the county court, if it's a smaller offense, to load up that probation require and ensure that they're actually going through a treatment program, following up, doing the things they're supposed to do with the idea that there is both a hammer and a carrot-- pardon me, a stick and a carrot. At the end, if they don't successfully complete the deferred judgment process, they can be sentenced to whatever they might have been sentenced before they were placed on this program. The carrot is that they will not be convicted of whatever that crime is if they can successfully complete this more intense type probation.

FOLEY: One minute.

WILLIAMS: Thank you very much for that clarification. And I appreciate that and I would yield you the balance of my time.

FOLEY: Thank you, Senator Williams. Senator Lathrop, 45 seconds.

LATHROP: Just to make this point. The problem solving courts are really probably the most consequential thing we've done in this body for reducing overcrowding. If these people-- primarily they are many of them were headed to the Department of Corrections to make that overcrowding problem worse. We have expanded four of them, the Appropriations Committee did with their appropriation, that is a significant contribution to trying to flatten the trend lines

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

Floor Debate  
May 15, 2019

---

which are trending up in terms of the population, and for that I appreciate the work of the Appropriations Committee. Thank you.

FOLEY: Thank you, Senator Lathrop. Senator Cavanaugh.

CAVANAUGH: Thank you, Mr. Lieutenant Governor. I appreciate very much the work that the Judiciary Committee has done on this bill. I share some of the concerns that others, including Senator Friesen have about what we're dealing with in this state and when we're dealing with our vulnerable populations, especially those suffering from a mental illness. And ask if Senator Lathrop would yield to a question.

FOLEY: Senator Lathrop, would you yield, please?

LATHROP: Yes.

CAVANAUGH: Thank you, Senator Lathrop. So you spoke about in your opening remarks that those suffering from mental health diagnosis would not be placed in solitary, correct?

LATHROP: Actually it's serious mental illness as opposed to a mental health diagnosis.

CAVANAUGH: Oh, sorry.

LATHROP: A lot of these guys have depression from being in jail.

CAVANAUGH: Right. Serious mental illness. And those are typically determined when they are entered into the facility, they are diagnosed or--

LATHROP: So, every time someone is convicted of a felony, they are processed and sent to Department of Corrections, they're processed at a place called the Diagnostic and Evaluation Center, D&E, for short. They spend-- go through a 30-day assessment, so they assess them there. Whether that assessment actually identifies as serious mental illness or not, I can't tell you. But that diagnosis comes along as they become members of the corrections community, if you will.

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

Floor Debate  
May 15, 2019

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They're inmates and people have a chance to observe them. And many of them are identified during the course of their incarceration.

CAVANAUGH: And it's my understanding, correct me if I'm wrong, that there's nothing requiring that they have an evaluation before they are placed into solitary confinement.

LATHROP: If they are-- so there are two types of restrictive housing, one is short term. So immediate, if you get in a fight in the yard with another inmate, they'll typically take you both and put you in restrictive housing in response to, or having an opportunity to sort out just what happened and get people away from one another. So that's short-term. Long-term typically has some contact with licensed mental health professionals or someone who will come by and do a, how you doing. They also have an opportunity, and I'm thinking back on Nikko Jenkins because when we did the 424 we read all of his medical records, with his consent by the way, and we could see where they would send requests for opportunities to talk to somebody in the mental health field.

CAVANAUGH: Thank you. One more question. So when an individual is released from restrictive housing, is there any process of evaluation of their mental state or their mental health at that time?

LATHROP: I don't think there is at the tail end. So if you-- and they can do years in restrictive housing. That's also a problem. When people come out of restrictive housing, I'm not aware of any assessment that they go through. Their security status changes to some other placement.

CAVANAUGH: Thank you, Senator Lathrop. I would like to see us putting some stipulations, maybe not this year but maybe perhaps next year, we can work towards tightening that up for those suffering from mental health problems. I'd like to just yield the remainder of my time to Senator Pansing Brooks.

FOLEY: Thank you, Senator Cavanaugh. Senator Pansing Brooks, 1:20.

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

Floor Debate  
May 15, 2019

---

PANSING BROOKS: Thank you, Senator Cavanaugh. Thank you, Mr. Lieutenant Governor. So I would like to continue the discussion of additional opportunities that are available to meet the statutory requirement that we have of getting the prisons under 140 percent of capacity by 2020. So we had some discussion on the one-third rule. The Council of State Governments during its initial report that led to LB605 showed that the minimum sentences have grown in proportion to their maximums which has narrowed the parole window. Page 36 of their report shows that the minimum sentence length as a percentage of the maximum length and the average inmate will have only one chance at a parole hearing according to CSG. The Justice Reinvestment final report also states that, quote, courts frequently impose sentence structures that allow no opportunity for parole, so-- or so short a period that provides little chance of meaningful postrelease supervision, unquote. LB131, the one-third rule bill that I brought will alleviate that problem allowing more than 95 percent of the individuals who are going to be released back into the community earlier access to parole so they can enter our society ready to be productive citizens and not recidivate. In turn, it will cost-- it will provide a cost savings to the state and keep our communities safer. When I brought this bill last year, the fiscal note estimated that 660 inmates could be placed on parole.

FOLEY: That's time, Senator.

PANSING BROOKS: Thank you.

FOLEY: Thank you, Senator Pansing Brooks. You're next in the queue, actually, five more minutes.

PANSING BROOKS: Thank you. So when I brought the bill last year on the one-third rule, the fiscal note estimated that 660 inmates could be placed on parole per year because of that bill, because of my current bill. The fiscal note thus showed a cost of parole of \$2,200,000. However, this was dwarfed by the cost of 31,271 per inmate for a total of \$20,638,860. The differential would be more than 5.7 million dollars of savings to our state annually, 5.7 million dollars annually at least. That's what fiscal said. So according to this fiscal note, this could have moved our state to 136 percent of designed capacity and yet this past year, the same agencies didn't provide the same information as last year, so even though the bill does exactly the same thing. So

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

perhaps, someone realized they revealed too much. I don't know. So again, part of the issue is this vicious cycle that we have. We-- and I learned that from sharing the LR34, Special Investigative Corrections Committee, that the vicious cycle starts with the overcrowding that we have. And those lead to understaffing and assaults, then which leads to a lack of programming because we don't have the people to take the inmates to the programs that they need which then leads to the parole-ready individuals just jamming out and not getting the clinical programming that they need which then, of course, leads to recidivism which then leads to more overcrowding. I believe that we must tackle these programs on all fronts in order to alter this dynamic. Another one of the bills that I presented was LB625 that would appropriate 5.8 million dollars. And I know that's a lot but it matches the actual annual savings of the one-third rule to the Nebraska Department of Corrections for programming, portables, and programming staff costs. Last year the Legislature appropriated 5.8 million dollars for a new 100-bed dormitory, so this would have been a similar appropriation. We know that the lack of programming is one of the many contributors-- or one of the main contributors to our overcrowding crisis. Too many inmates are being deferred when they're up for parole due to the fact that they haven't received the clinical programming that the board of parole requires. Further, when these deferrals happen, the state is not acting in a systemic way to get these individuals into programming. The end result is that more people are staying in prison longer at taxpayer expense, and then at greater risk to our communities they are jamming out. Another bill, LB133 this session would help rectify the problem by requiring the Department of Corrections to find out from the parole board when a person has been deferred for parole based on a programming deficiency and to respond by offering programming within 30 days. At the hearing I submitted information put together by the Nebraska Parole Administration that illustrates the problem. The first sheet showed that in 2018, of the 3,000 parole deferrals, 1,766 or 58 percent did not have the required correctional treatment needed. This was the total number of deferrals, not an individual count based on specific individuals who were denied parole. So this means that many of these individuals reviewed for parole could have been deferred multiple times for the same reason, most often due to a lack of programming. It is important to note that most of those who came before the parole board are nonviolent offenses, about 66 percent. Also we know, again, that about 95 percent of the people returned to the community. We need to prepare them for life on the outside so that we are all safer. The LR127 Special Investigative Committee's report in 2017 said, quote, the Department of Correctional Services should continue--

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

FOLEY: One minute.

PANSING BROOKS: --to prioritize its efforts to provide adequate and timely programming opportunities to inmates to ensure that they are appropriately prepared for reentry into our community and to ensure that they are parole ready to alleviate overcrowding. There were 927 inmates in Nebraska who are past their parole eligibility dates according to our last count of data received from the parole administration. In the next six months, another 500 will reach their parole eligibility date. And I'll finish this in the next time up. Thank you.

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

CHAMBERS: Thank you. Mr. President and members of the Legislature, as I stated, I don't have much that I'll say on this bill. If I had not thought that the train had left the station, if I did not know that that ship had sailed, maybe I would try to do something with the bill. But Senator Lathrop has done as much as can be done, has gotten as much as he can, and I don't want anything I said earlier that I might say subsequent to these words that I'm uttering right now, to be in any way construed as a criticism of him as an individual senator, or the way he dealt with the committee work. It was a monumental job and the other members of the committee did well, even the ones that I don't see eye to eye with on specific issues or philosophically. I don't know if I'll see eye to eye with anybody philosophically. But I just want to talk about the nature and the state, if you want to call it that, of prison reform in this country. When you find the Koch brothers and the ACLU on the same side, when you find Donald Trump's son-in-law, Kushner, providing much of the impetus for the congressional prisoner or penal reform, it lets you know that something has broken through into the consciousness of those who call themselves conservatives and tough on crime, they see how simpleminded that was, they're recognizing the spillover and problems that exist now because people were sentenced during those years, decades ago who are still serving prison under so-called three strike rules, and the mandatory minimums that have resulted in a number of federal judges and in some cases even appellate courts ordering the actual release of prisoners. Not giving you time to do anything. You let them out now. So these conservatives, as they call themselves, realized that the approach towards sentencing was narrow-minded, it was vindictive, it had no penological justification. It was exactly contrary to the notion of a penitentiary having been changed to a Department of

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

Floor Debate  
May 15, 2019

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Correctional Services which meant instead of strictly punishing, you're trying to reform people and change their conduct. But when they went into the prisons as they were constituted then and are now in Nebraska, people were worse when they came out than when they went in. So next year, which will be my last, I will offer what I can knowing that even should the body pass it, the Governor will veto it. But because you know you're dealing with a vindictive, narrow-minded little man like him, that is no excuse or justification for not putting forth the effort required to bring about the changes. So, I guess I would have to say I applaud Senator Lathrop and the committee for bringing this legislation as far as they have, and I'm still puzzled, except that I know that the Governor appointed Senator La Grone, what he could have a problem with. There are things he has said on the floor where he was factually incorrect. When he was talking about the law, he was legally in error. So those in the hallway who give him orders and directions from the Governor, or the Governor's flunkies, they send him in here to do things but they have people who are uninformed or misinformed, then he sounds like he's more ignorant than he is.

FOLEY: One minute.

CHAMBERS: See, La Grone is not an ignorant person. I can watch his body language and I can see him cringing when he says some of the things that he has to mechanically say because he got his instructions. The hand that feeds controls and the Governor appointed him for a reason. He appointed Senator Slama for a reason. If you look at the nature of what a Legislature is to do and the type of people and the abilities, the experience, the knowledge they ought to have, two appointments were made that ought not to have been made. I'm being frank because I'm a part of this Legislature and my job has been made more difficult by the Governor's persons coming in here and bringing mess that I have to try to clean up. This bill, I tell you, is innocuous. The Koch brothers would mock you. The Koch brothers, and say, you call this prison reform?

FOLEY: Time, Senator.

CHAMBERS: You say time?

FOLEY: Yes.

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

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CHAMBERS: You spared all of us. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Murman.

MURMAN: Thanks a lot, Mr. President. I am speaking mainly in reference to Senator Friesen's amendment that was pulled, so I'm a little late getting into the queue, but I just wanted to make a couple of comments. As I campaigned around the district, my district is 38, it's seven counties that kind of surround Adams County, Hastings, and Kearney. I heard often from law enforcement, county sheriffs, about the problems that we have with mental health in the state, especially in reference to the Hastings Regional Center being closed. A lot of their problems that they had to deal with, the people that they had to deal with were better cared for in a more-- they felt they would be better cared for in a more restrictive mental health facility such as the Hastings Regional Center had been. I also heard that from county commissioners. And also to some degree from judges in that area. Also I'd just like to make a comment. I did hear from judges also about the benefits of the problem solving courts. Thank you very much.

FOLEY: Thank you, Senator Murman. Senator McCollister.

McCOLLISTER: Thank you, Mr. President, and good afternoon, colleagues. The circumstances that Senator Pansing Brooks described, you know what that's actually called? That's called a negative feedback loop. And that's a circuit that feeds back some of the output into the input system. And that's what we have, I think right now with the criminal justice system in Nebraska. A comment about the problem solving courts. I introduced the drug and that-- excuse me, the veteran problem solving court in Douglas County and some of the comments are absolutely right. You need to go to a graduation. If you really want to see the value of problem solving courts and drug solving courts, even family courts, that's a better way to do justice in Nebraska than some of the other ways of dealing with criminality. You know, I think we need to better distinguish between the people we're angry with and the people that scare us. If somebody is a violent criminal, no question about it, they belong in prison. But if they're not that description, then we need to deal with them in a more positive way. And with that, I'll yield the balance of my time to Senator Pansing Brooks.



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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

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FOLEY: Thank you, Senator McCollister. Senator Pansing Brooks, three minutes and a half.

PANSING BROOKS: Thank you very much, Senator McCollister. Thank you, Mr. Lieutenant Governor. So just trying to finalize and sum up, when I was-- I was talking about LB131 which is-- hang on one second. Sorry. Anyway, on LB131, which was the one-third rule, we had an issue where there was opposition testimony at that point from the Attorney General's Office, the county attorneys, and the Omaha police. They all insisted that we should not look at sentencing reform to fix the overcrowding crisis, but that we should put more resources and money into programming. So I told them in the hearing that I had a bill coming up the following Monday to put more money into programming and I invited them to come to Appropriations to tell that committee what they had told the Judiciary Committee that we needed more money for programming. I know you'll all be very surprised, but not one of them showed up to that hearing in Appropriations. So what we have, colleagues, is that we have the county attorneys basically saying that we should address the problem through programming, even though current sentence structures disincentivize programming. Then we have prison officials who say, there are way too many people coming into the system and that's where the problem lies. So which is it, colleagues? When are we going to get real about these problems? We are all responsible. It is not the executive branch's fault, it's not the Legislature's fault, it's not judge's fault, but it is all of our fault, all together. It is cumulative acts that are causing this overcrowding crisis and if some of us can't stand down, and again, the enemy of good is perfect. And exactly expecting perfection through these advocacy groups, and I call the county attorneys an advocacy group, I call the attorney generals advocacy groups because they're always out here advocating for one side or another. So they're just as much lobbyist as anybody else. And so I believe that the only way that we're going to solve the overcrowding crisis is through sentencing reform and money for programming and staffing. What we can't do is try to build our way out of this when the flow of people coming into the system is getting larger and larger. If we keep building-- if we continue to build it, they will come.

FOLEY: One minute.

PANSING BROOKS: And I know that Senator Lathrop is highly aware of that and is working his tail off to try to maneuver through all of these activists groups, I'm including the county

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Floor Debate  
May 15, 2019

---

attorneys who have said, oh, no, this has nothing to do with us. It does have to do with them. It has to do with stacking of sentencing. It has to do with taking as many sentences as possible. So I hope that next year will be the year we get serious about this problem. And I totally support, as I said, LB686, and the package and the amendment, and I wholeheartedly support money for problem solving courts. I believe more significant measures need to be taken to address the overcrowding crisis. Thank you very much.

FOLEY: Thank you, Senator Pansing Brooks. You're actually next in the queue, you may continue.

PANSING BROOKS: I waive.

FOLEY: She waives that opportunity. Senator Lathrop, you're recognized to close on AM1737, committee amendment.

LATHROP: Thank you, Mr. President. I'll be very brief. I appreciate the discussion, I appreciate my colleagues and their involvement in trying to craft a solution. Also, your attention to this subject matter. We will continue to work on this. I have different studies that will be involved in over the interim so that I can get up to speed and the members can as well. And we'll be back with more ideas next year. And with that, I would encourage your support of AM1737. Thank you.

FOLEY: Thank you, Senator Lathrop. Members, you heard the debate on AM1737, committee amendment. The question for 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: 42 ayes, 0 nays on the adoption of committee amendments, Mr. President.

FOLEY: AM1737, committee amendment has been adopted. Is there any other discussion on LB686 as amended? I see none. Senator Lathrop, you're recognized to close. He waives closing.

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Floor Debate  
May 15, 2019

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The question for the body is the advance of LB686 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

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

FOLEY: LB686 advances. Items for the record, please.

ASSISTANT CLERK: Mr. President, thank you. New bill, LB720A by Senator Kolterman. (Read title.) Notice of committee hearing from the Retirement Systems Committee. Amendments to be printed: Senator Erdman to LB719; Senator Stinner to LB4A; Senator Ben Hansen to LB511. That's all I have at this time.

FOLEY: Thank you, Mr. Clerk. (Visitors introduced.) Moving on to the agenda, General File, 2019 committee priority bill, LB592. Mr. Clerk.

ASSISTANT CLERK: Mr. President, first of all, Senator Wayne, I had a motion to indefinitely postpone. I have a note to withdraw.

FOLEY: Motion is withdrawn.

ASSISTANT CLERK: In that case, LB592 introduced by Senator Briese. (Read title.) The bill was introduced on January 23rd, referred to the General Affairs Committee. That committee placed the bill on General File with committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Briese, you're recognized to open on LB592.

BRIESE: Thank you, Mr. President, and I would probably just prefer to go into the amendment. So, thank you.

FOLEY: Please proceed with the committee amendment.

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Floor Debate  
May 15, 2019

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BRIESE: Thank you again, Mr. President, and good afternoon, colleagues. I rise today to introduce LB592 and the committee amendment, AM1359 which replaces the bill. LB592 is a bill that I introduced on behalf of the Liquor Control Commission regarding the ability to order mandatory closure days for violations of the Liquor Control Act. That bill was used as a vehicle for the General Affairs Committee priority. After the hearing on LB592 and discussions with the committee, the original content of LB592 was removed by the committee amendment, and portions of LB584 were inserted. The committee amendment, AM1359, is a white copy amendment that will become the bill. AM1359 includes provisions of Senator Hilgers' LB584, which was heard before the General Affairs Committee on February 11th. It was advanced unanimously from committee and is currently on General File. And I believe Senator Hilgers will speak to this shortly, but LB584 made changes and updated provisions of the Farm Winery Act. It was presented to the committee as a bill that would help support and grow our farm wineries across this state. These farm wineries represent entrepreneurs and small businesses throughout our districts and communities and are a point of tourism within our state. AM1359 is made up of two main provisions of LB584 and amends three sections of law. Those amended provisions are as follows. The first law amends Section 53-103 to lower the percentage of grapes, fruits, or other ag products that must be grown in this state to meet the definition of farm winery. It lowers that percentage from 75 to 60 percent. It makes a similar percentage change to harmonize another portion of the statute and allow the Liquor Control Commission in its discretion, and requested by the operator of a farm winery due to natural disasters and taking into consideration the availability of products used in farm wineries in the area, to waive the lowered 60 percent Nebraska product requirement. This waiver is already allowed in statute, but the amendment makes a technical change from 75 percent to 60 percent to harmonize the statutory provisions. During the hearing we heard from several different winery operations of the difficulty and hardship at times to have enough Nebraska grapes and ag products to produce enough wine to meet and continue growth whether from spray drift, weather, or natural disasters. The testifiers indicated it's always their preference when available to use Nebraska grapes, however that unfortunately is not always an option. One such operator expressed that in 2017, one of their largest growers who grew a hard-to-find variety, decided midsummer they did not have enough grapes to-- due to spray drift, and they were done essentially. This prevented that operator from producing two of their best selling wines that year. While there is the ability to get the waiver from the Liquor Control Commission, the wineries made a compelling argument, it's

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Floor Debate  
May 15, 2019

---

tough to run your business relying on the hope that you get such a waiver. This provision decreasing the percentage of Nebraska grapes simply allows more flexibility for the wine industry to grow. The final provision of LB584, included in this amendment, amends Section 53-123.11 to increase the number of branch outlets that a farm winery may allow-- in which the farm winery may allow the sampling and sale of its wines from one branch outlet to four. Testifiers demonstrated the benefit of increasing the number of branch outlets allowed. As a majority of wineries in this state are located in rural areas where vineyards can be planted, having the ability through legislation such as this to allow these wineries to have branch outlets in more heavy populated areas helps them to grow their business, share their products with more individuals while still maintaining the agritourism [INAUDIBLE] that is crucial to Nebraska's wine industry. No other additional provisions of LB584 were included in the committee amendment. The main opposition to LB584 at the hearing were from wholesalers and beverage distributors. They objected to various provisions of LB584. The provisions we used in the committee amendment represents a compromise by the committee and interested parties to help support this unique and important industry within our state while removing areas of concern from other aspects of the alcohol industry. And I would add there is an intent to further study such additional components of LB584 over the interim and come back next year with any additional comprehensive updates. I believe Senator Lowe worked on an LR that will help address some of this. I believe this is a good bill to help a unique industry in our state to support these small business owners and the communities that they serve in a reasonable and uncontroversial way. And I would urge your green vote on AM1359 and the underlying bill. Thank you, Mr. President.

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

ASSISTANT CLERK: Mr. President, Senator Slama would move to amend the committee amendments with AM1587.

FOLEY: Senator Slama, you're recognized to open on AM1587.

SLAMA: Thank you, Mr. President. I rise to introduce AM1587 to LB592. There are 25 farm wineries in the state of Nebraska and currently for every wedding, concert, party, any event they

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Rough Draft

Floor Debate  
May 15, 2019

---

host in which their clients have requested alcohol in addition to wine, these 25 wineries must apply for a special liquor license, an SDL, which is a Special Designated License, through the Liquor Control Commission. This license lasts for one day. So for example, if you've got a college graduation party scheduled for Friday, wedding scheduled for Saturday, and a family reunion scheduled for Sunday, they'd have to apply for an SDL-- a separate SDL for each of those days. For many wineries, this leads to stacks upon stacks of paperwork to fill out repetitive SDL applications dozens of times per year. My amendment would allow farm wineries to obtain the appropriate licensure to cut through this red tape and obtain the appropriate licensing. The distributors have pulled many of you out to the Rotunda over the last few days arguing that this amendment would open Nebraska up to lawsuits, compromise the farm wineries ability to self-distribute, and collapse the three-tier system. I can assure you all that the sky is not falling with this amendment and would just like to know that those distributors control 97 percent of the total wine sales in Nebraska. That's right, folks. Only 3 percent of Nebraska wine sales come from Nebraska farm wineries. In addition, our surrounding states allow farm wineries to self-distribute with far fewer restrictions than what we're asking for with this amendment. In those other states, including Iowa and Missouri, the three-tier system has not fallen. The courts have not been flooded with lawsuits and I have little reason to believe anything different would happen here. Nebraska's farm wineries right to self-distribute is codified in statute. This amendment would not compromise that ability. The only way that could be taken away is if we were to repeal that section of statute. This amendment, along with other parts of LB584, which were included in LB592, was the result of a study conducted via LR382 during the interim. A few of you have also expressed concern that farm wineries obtaining additional licensing would turn them into bars. We have a case study in Nebraska that shows that this won't happen. SchillingBridge located in Pawnee City became the first winery brewery in the nation and actually has a Class C license. In the 14 years they've had this license, they've never abused it and have always purchased liquor through the appropriate distributors. Look, if these farm wineries were looking to become bars, they'd have done it already. It would be easier, cheaper, and far less hassle for them just to say, even though we like serving our customers our homegrown wine, we can get wine easily from the distributors. Nebraska wineries are in this business because of their passion for homegrown Nebraska wine. In addition to helping small business, AM1587 will significantly cut down on the paperwork process by the Liquor Control Commission. The Liquor Control Commission actually supports this amendment because they're constantly processing redundant

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Rough Draft

Floor Debate  
May 15, 2019

---

paperwork from these wineries because every single event that these wineries host requires that SDL. That equates to piles on top of piles of paperwork throughout the year, both for the Liquor Control Commission and for the wineries. In short, I brought this amendment, much in the same vein of Senator Crawford's cottage food bill passed earlier in the session, to give our small businesses a chance to focus on their craft rather than constantly filling out SDL after SDL. If this amendment passes, the distributors, who again control 97 percent of our state's wine sales, will be fine. The sun will rise again in the morning and there will not be a long line of lawyers standing outside of Lancaster County courthouse looking to file suit. If you support small businesses, our mom and pop farm wineries throughout the state, or even just support trimming down wasteful government bureaucracy, I'd encourage you to support this amendment. Thank you, Mr. President.

FOLEY: Thank you, Senator Slama. Debate is now open on LB592 and the pending amendment. Senator Blood.

BLOOD: Thank you, Mr. President. Fellow senators, friends all, I stand opposed to Senator Slama's amendment, but in support of the General Affairs amendment which ultimately becomes the underlying bill. As a member of the General Affairs Committee, Senator Wayne and I are actually the only people that actually have three years on that committee. You get a very clear understanding of the importance of the laws that pertain to alcohol and how they affect businesses in Nebraska. I think it's unfortunate that this is compared to the cottage bill 'cause cottage bill really was about individuals who are creating issues-- creating foods and items at home so they could sell them legally from their homes much like you do in a farmers market. So that's kind of the apples to oranges thing. But that was a great try on Senator Slama's part. So what I feel personally, I'm going to build on what Senator Slama said, is that this amendment does expose Nebraska to a constitutional challenge on the basis that the law discriminates against added state wineries, which are currently prohibited from owning retail outlets while allowing Nebraska farm wineries to do so. As we have learned from Senator Hilgers in the past-- or you moved up there somewhere, wherever you are now --Senator Hilgers in the past, this is a classic example of a violation of the Dormant Commerce Clause which the United States Supreme Court detailed in its decision in *Granholm v. Heald*, which we heard a lot about in my freshman year. In that case the Supreme Court clearly states that a state may not discriminate against out-

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Rough Draft

Floor Debate  
May 15, 2019

---

of-state commercial interests in favor of in-state commercial interest. And if they do, they can be subject to a case under 42 U.S.C., which is United States Supreme Court, Section 1983, and Nebraska can be held liable for things like attorney fees. Now should a court finds to be discrimination and the question arises, what remedy should they use? So in these cases, courts can do something called leveling up. This means that all manufacturers can have retail rights or level down saying that none do. So either of these remedies would be bad for Nebraska. One of the reasons for Nebraska's three-tier system is to ensure that there are no vertical monopolies, guys. Also to make sure that the appropriate level of taxes are paid, encourage moderate consumption, and facilitate local and state control of alcohol. There's your history lesson for the day. So under current law, a farm winery may only sell wines to consumers visiting the premises and otherwise market its products. This privilege is basically an incident of its manufacturing license. Now as written, it is not likely it would be held in violation of the Dormant Clause. However, to add full retail privileges, it could subject the state to liability discrimination and this issue should be addressed in an interim study such as the one that Senator Lowe has already drafted and I believe has turned in. Okay. This is an issue where all involved should have a seat at the table, much like was done my freshman year with our craft brewers. So to say that there were no cases to be found in reference to this is actually inaccurate. So I did find the federal court in Illinois that leveled up-down-- that leveled down as a remedy to the Anheuser-Busch v. Snorkun-- or Schnorf in 2010. And if you look at page 27, the court discusses remedies. Now, in the discussion, they envisioned leveling up, which would have been really bad, but chose to level down in that case. And for those of you that are not on the General Affairs Committee, the three-tier system is about the brewers, the distributors, and the retailers. And it does get really complicated. But one of the best things that the state has done--

FOLEY: One minute.

BLOOD: --especially when you talk about our craft brewers, is bring a lot of parties to the table, and when you have a meeting of minds and you have a good interim study and you have good conversation that involves the state, that involves everybody involved with this issue, you get better policy. And then you bring a bill that has a public hearing and good debate on the floor. And in this case, this amendment does not do that. I ask you to vote red on Senator Slama's bill,



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Rough Draft

Floor Debate  
May 15, 2019

---

but green on both the General Affairs amendment and the committee's underlying bill as amended. Thank you, Mr. President.

FOLEY: Thank you, Senator Blood. Senator Hilgers.

HILGERS: Thank you, Mr. President. Good afternoon, colleagues. I'm only going to speak briefly on AM1359, but I do appreciate Senator Blood raising the Dormant Commerce Clause and the Granholm decision. I will talk you off the mike on that Illinois case that you referenced. I'd like to read that. Just briefly I want to echo what Senator Briese said, first thank him and the committee for including pieces of my LB584 into the committee priority bill. So I want to thank them for that and just to reiterate a couple of the points of what's included in AM1359. They are essentially two changes. One of which is really-- has two separate changes, but substantively it's one. The first is to lower the limit, the requirement limit for Nebraska wineries for the grape percentage. So currently that has to be 75 to be a Nebraska wine. You have to have 75 percent of Nebraska grapes. As these entrepreneurs, small businesses are growing, they use more and more of the supply here in Nebraska and it's harder to be able to hit that 75 percent threshold. And there's more and more waivers that have been issued over the last couple of years. And so lowering that threshold would make it easier for the wineries themselves. So the first change is to change that threshold from 75 percent to 60 percent. As Senator Briese noted, it sort of created a cascading change that was required, which was for the waiver threshold, which was set at 75 percent. If we changed the threshold from 75 to 60, we'll also have to change the waiver threshold from 75 to 60. So that's the first change. The second change is to increase the number of tasting room-- tasting rooms that are available to these wineries from one, which is under the current law under Chapter 53, Section 123.11, which allows them one branch location. Now they can have up to four and for many of these wineries, they are in rural locations. And so having more outlets will allow them to go into more populous areas to help grow their businesses. So this was the product that Senator Briese mentioned. This is a product of the interim study over the last summer looking at ways that we could help encourage and grow our farm winery industry here in Nebraska. There are wineries probably in every single district in the state. They do great work. They employ a lot of Nebraskans. We're very proud of them. We want to support them and these were two pieces that came from that interim study. We're glad that it's in the

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Rough Draft

Floor Debate  
May 15, 2019

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committee amendment, so I'd urge your green light on AM1359 and the underlying bill. Thank you, Mr. President.

FOLEY: Thank you, Senator Hilgers. Senator Lowe.

LOWE: Thank you, Lieutenant Governor. It is in my opinion that if the Legislature were to provide farm wineries with full retail privileges, that it exposes the state to a constitutional challenge on the basis that the law discriminates against out-of-state wineries, which are prohibited from owning retail outlets while permitting Nebraska farm wineries to do so. This is a classic example of a violation of the Dormant Clause-- Commerce Clause which the U.S. Supreme Court detailed in its decision of *Granholm v. Heald*. In that case the Supreme Court stated that a state may not discriminate against out-of-state commercial interests in favor of an in-state commercial interest. If they do, they can be subject to a case under 42 U.S.C. 1983 and states can be liable for attorney fees. When courts do find discrimination, then the question comes, to what remedy should they use? Courts in some places have leveled up, meaning all manufacturers could have their retail rights or level down, saying none do. Either of these remedies could be disastrous for Nebraska. By allowing farm wineries to have retail licenses such as a Class C liquor license, it would allow them to become a super bar. They would have more rights and privileges than any other bar in the state, except for farm wineries. They would be in total competition with other places you could buy a liquor license with-- they would be able to self-distribute their own wine. Microbreweries cannot do this. They have to go through a distributor. The microdistilleries cannot do this. They have to go through a distributor. This would make farm wineries one of the most powerful license that anybody could get in our state. We took a look at this in the General Affairs Committee and decided not to allow this to happen. Because of that fact, it would not be fair. We did allow them to go from 75 to 60 percent of Nebraska wines-- or grapes in their wines. And we did allow them from one to four branch outlets. This will help their business. I am one that is normally for business. And this would make an unfair business situation with all the other businesses. So in that case, I'm not for Senator Slama's AM1587, but I am for AM1359 and the underlying bill of LB592. Senator Blood did do a nice job of describing everything. And when we look at it, we don't want to create unfair advantages when we're passing laws. This does create an unfair advantage. As one

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Rough Draft

Floor Debate  
May 15, 2019

---

who has owned several businesses in this industry, I feel I can speak freely on this and that when you do create an unfair advantage, it hurts all the industry.

FOLEY: One minute.

LOWE: Thank you, Mr. President. If we do this, our state could be liable for lawsuits. I have an interim study coming up this summer where we're going to look at SDLs, where we may make them go multiday. So if you have a business, it can go multiday. And if we need to expand that to look at other things, I'm willing to do so. So let's wait for the interim study. Let's do this a proper way and let's not create unfair advantage in our state. Thank you, Mr. President.

FOLEY: Thank you, Senator Lowe. Senator Murman.

MURMAN: Thank you, Mr. President. I stand in support and appreciate Senator Briese and the General Affairs Committee for bringing this bill forward and I also stand in support and thank Senator Slama for bringing AM1587. This bill, and specifically this amendment, will help grow the wine industry in Nebraska. I had multiple business owners in the wine industry reach out to me and share their concerns. Several of them mentioned that the ability to utilize a lower amount of Nebraska-grown grapes when making their finished product will help tremendously, especially because many of them were affected by the spring floods. Secondly, the ability to increase the number of branch outlets from one to four will be very beneficial for business growth in all of these farm wineries. This will be a big push for economic development in our small communities, especially with our growing Nebraska Passport Program. Every year the Nebraska Passport generates millions of dollars in traveler spending, local and state tax revenue. By expanding their branches, they are drawing in more business and selling more of their product and helping our communities across the state. Looking specifically at AM1587, the Class C license would be a tremendous asset to these small businesses. One of the business owners that contacted me said that they are spending countless hours just applying for these special designated licenses for every single event that they have. It's important to add that they need have these SDL's two to three weeks in advance of every specific event. Think of all the weddings, music events, corporate events, etcetera, that can help these small businesses. We talk a lot about local control and making sure that our businesses have the chance to grow. Instead of

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Rough Draft

Floor Debate  
May 15, 2019

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them having to spend those hours applying for special designated liquor licenses for every single event, they could be out perfecting a new wine or working with customers. And in closing, I'd like to just give you a quote from a winery owner that I know very well. Our property, including vineyards, production, and event center are intended to promote wine tourism and host events. Hosting events requires providing guests what they want. And allowing Nebraska farm winery to hold a Class C liquor license is crucial hosting events. Getting an SDL for every single event is not the answer. It's time consuming for everyone and limits what events we can do because of the lead time to get an SDL. We estimate that we lose between 75,000 and \$150,000 in lost business a year because we have to decline guests wine to rent in a short three-weeks time frame. In addition to lost dollars, our attendance at these events at Glacial Till Winery would have included 3,000 to 6,000 people who would get exposed to the Nebraska wine tourism in our state. That's a lot of Highballs lost, not to mention the revenue. So I do stand in support of the bill and both amendments. Thank you, Mr. President.

FOLEY: Thank you, Senator Murman. Senator Friesen.

FRIESEN: Thank you, Mr. President. I won't get into the legal arguments on AM1587, but I do support the concept of the bill. In my district we have winery that-- it was located outside the city limits. They recently rehabbed an old building in a small town and put in a nice restaurant there and now they serve their wine there, but it's difficult for them to serve any kinds of alcohol other than the wine. So I think if we want to talk about economic development and trying to keep these small towns going, this is something that needs to be addressed. And I hope sooner than later that we can address this issue. These places, there's not a lot of them. There's not a lot of product sold. They're not going to put anybody else out of business. They're not going to damage the distributors but we need to follow the law. So we need to figure something out here because I think some of these wineries that might be the only restaurant in town that they have, all they want is the ability for somebody to come in and have a beer instead of a glass of wine. They're still going to be buying that beer from a distributor. Let's figure something out and make this work because I think these places are kind of-- they are kind of special. They're getting to be tourist destinations and let's see that if we can make something work and get this process moving a little faster. So with that, I'd support the concept of the entire bill and the amendment. Thank you, Mr. President.

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Rough Draft

Floor Debate  
May 15, 2019

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FOLEY: Thank you, Senator Friesen. Senator Briese.

BRIESE: Thank you, Mr. President. And really the discussion here is revolving around the three-tier system. After the 21st amendment repealed prohibition, states were given the authority to regulate alcohol as they saw fit. And this led most states to develop a regulatory system called the three-tier system. It was a method to provide safe alcohol to the consumer while ensuring a simple method to collect tax revenue. And the system essentially is, I believe Senator Blood mentioned, essentially prevents vertical integration. Here the manufacturers under the three-tier system, the manufacturers produce the product, wholesalers distribute it, and the retailers sell it. And generally, no one entity can be involved in more than one tier of that system. In Nebraska that system is essentially laid out in Section 53-169, 53-171. And there are exceptions to the three-tier system in Nebraska and in other states. And the exceptions here include farm wineries which currently exist to a limited extent on all three tiers. A farm winery is a limited manufacturer, capped at 50,000 gallons a year. They're a very limited wholesaler because they can only wholesale their own product up to 30,000 gallons and they're a limited retailer because they can only retail their own product. Allowing the farm winery a Class C license, as this amendment would, simply gives them full retail ability. So farm wineries today can only retail their own wine going through the SDL process for a particular event. The C license provision would not require that they obtain a C license, but would give them that option. And at the hearing, the additional retail license provision was supported by the farm wineries, and I believe the Liquor Control Commission was either in support or neutral, but obviously it was opposed by the wholesalers and distributors. Senator Slama did a great job of laying out why many in the industry want this. And I was just going to describe some of the opposition testimony that we heard at the hearing. The opponents had several concerns about the bill, made several assertions. They suggested any changes do increase the possibility of a lawsuit. One suggested the expansion of C licensing would discriminate against out-of-state wineries which are prohibited from owning retail outlets. They're concerned about unfairly tipping the competitive field in favor of the wineries. Being allowed to operate on all three tiers, in the words of someone there, essentially diminishes the effectiveness and purpose of the three-tier system, which again could lead to lawsuits, possibly invalidating some of our alcohol laws. And craft brewers and others may want similar treatment. They-- right now they're only allowed to operate on two tiers. So they might be inclined, motivated to get similar treatment to be able to operate on all three. So in

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Floor Debate  
May 15, 2019

---

an effort to move this amendment forward without headwinds, we as the committee simply included the portions of LB584 that had no objection. And I agree, there are some merits to both positions regarding the C licensing provision. But again, we as a committee decided against a policy that further abrogates the three-tier system. We decided it wasn't in the best interest of the stakeholders here to further entrench one segment of the industry on all three tiers and invite potential lawsuits or invite others to demand equal access to all three tiers, which then could invite those lawsuits, possibly constitutional challenges. So I guess at this point, I am generally opposed to AM1587, but I do recognize there are some great arguments in support of it and I appreciate Senator Slama bringing it and putting forth those arguments and having this discussion. I'll listen to the rest of the discussion here, but at this point I will stick with what the committee agreed on to put forward. Thank you, Mr. President.

FOLEY: Thank you, Senator Briese. Senator Brandt.

BRANDT: Thank you, Mr. Lieutenant Governor. Thank you, Senator Briese, for bringing this bill. I sit on General Affairs Committee with Senator Briese, Senator Lowe, and Senator Blood. And I can tell you this, Senator Lowe has probably the most extensive background in this Chamber in alcohol. [LAUGHTER] In a good way. And Senator Blood, any time we have a question about liquor permits and city councils has a lot of expertise there. What you're looking at on the board is the original bill all together. And what our discussion centered around were the four parts and the first was to drop it to 60 percent and what happens in Nebraska when we have a freeze or a drought, there aren't enough grapes in the state to maintain the 75 percent, so then that's why they asked to drop it to 60 percent. The wine has to be made at least with 60 percent to be qualified as a Nebraska product. And they can buy grapes from other vineyards as long as they're within the state and that helps solve that problem. The other thing is the larger wineries would like to have multiple locations, particularly those in urban areas on the one liquor permit, and LB592 gives them up to four locations. Then it was also discussed that we on a Special Designated License on a weekend and I think Senator Blood can maybe help me out here if I'm doing this wrong, but a lot of these places host wedding receptions. And if they have a reception on Friday night, they've got to get a permit from the city council. Then they have another one on Saturday night, they got to get another permit. And if they've got another one on Sunday night, they have to get a permit. And they have to do that every week during wedding season, or

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Floor Debate  
May 15, 2019

---

whatever kind of party they're having. And that was sort of a problem, you need two wineries. And then they asked to have this Class C license which allowed them to sell beer year round and then that got to be in a conflict with the constitution. So what we as a committee sort of decided to do was to break this into two parts. LB592 which is now AM1359, which contains the 60 percent Nebraska grapes and the four locations and then to take a hard look over the interim and Senator Lowe is going to lead this at-- if maybe we can create a special SDL in the state of Nebraska for this group of licensees and to have that include the Class C license with that. So I guess that's a little background of where we're at. I'm not opposed to them getting a Class C, but I'd like to see us do a research through the summer. So for that reason, I'm opposed to AM1587 and would encourage you to vote green on AM1359 and LB592. Thank you.

FOLEY: Thank you, Senator Brandt. Senator Lowe.

LOWE: Thank you, Lieutenant Governor. I'd just like everybody to-- I'm sorry to say this, but vote red on Senator Slama's amendment and vote green on AM1359 and LB592. We are going to study this over the summer and we're going to come up with a solution that fits and that Nebraska won't be in trouble. So vote green on AM1359 and LB592. Let's not pass AM1587 where we could get into trouble. Thank you, Mr. President.

FOLEY: Thank you, Senator Lowe. Senator Hilgers.

HILGERS: Thank you, Mr. President, and I'll be brief here. I just want to respond to at least a couple of the comments regarding the constitutionality of these types of laws. And I did speak as I promised with Senator Blood off the mike regarding the Illinois decision and how it relates to the Granholm case. The Supreme Court decision-- the 2005 Granholm decision dealing with the Michigan and New York laws. I'll just briefly, the concept of the Dormant Commerce Clause is, it's basically an implied restriction on the powers of the states to discriminate against in-state or-- out-of-state versus in-state companies. And so it's part of our constitutional scheme. It's very-- been a longstanding part of our scheme since the constitution was ratified. So in this context at least, the Granholm decision basically said states can't discriminate against out-of-state wineries, so there were laws that restricted out-of-state wineries from directly selling to individuals within those states. The Supreme Court said no, you can't do that because it unfairly gives a benefit to

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

Floor Debate  
May 15, 2019

---

the in-state wineries. And then in the Illinois decision that I was reading after I spoke with Senator Blood, the *Busch v. Schnorf* decision from 2010, that one was similar to the Granholm decision, but I think dissimilar from the amendment that Senator Slama is putting forth because in that case, there was an explicit nonresident distribution restriction. So in other words, if you were a resident distributor, you could distribute under certain terms, but there was a special classification for nonresident distributors and the case actually revolved around the Liquor Commission, and in that case was actually trying to prohibit a merger for, I think, InBev and Anheuser-Busch. And so, there was a challenge over the restriction of that merger and it really boiled down to this nonresident distribution license. And so I think, unlike those cases, the bill here just actually provides some additional expansion of power for wineries to sell at the retail level. There isn't at least the explicit restriction as to out-of-state sellers and it's really not in the distribution context in the first place, it's really at the retail context. I think we're-- I think to some degree we're discussing apples and oranges constitutionally. That being said, this is an area that can be fraught with danger and there's lots of nuance and there's lots of cases out there, so I don't want to-- I certainly don't want to suggest to the body that I've done a fulsome constitutional review of this type of legislation. But I do want to suggest and I do want to state on the record because it was raised that I do not see the direct comparison of this amendment with what was at stake at Granholm and what was at issue in the *Busch* decision from 2010. I just-- I don't think that they apply the same way. So I just wanted to-- since we're talking constitution, we were talking about the rules that are governing us, I think it's important to make sure the record is as clear as it can be and I wanted at least put that on the record and I appreciate Senator Blood's research in bringing that case. I do think it was-- it certainly was a Dormant Commerce Clause and I've been reading it. It's very interesting, so I appreciate her research in aiding the body and I appreciate her bringing that to my attention, and I enjoyed the conversation with her and we'll continue to have a discussion on it. Thank you, Mr. President.

FOLEY: Thank you, Senator Hilgers. Senator Chambers.

CHAMBERS: Thank you. Mr. President, members of the Legislature, I would like to ask, first, Senator Briese a question.

FOLEY: Senator Briese, would you yield, please?



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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

BRIESE: Yes.

CHAMBERS: Senator Briese, did I correctly understand you to say that you're going to oppose this amendment?

BRIESE: Mild opposition, I'll vote red on it.

CHAMBERS: Thank you. I would like to ask Senator Lowe a question if he would yield.

FOLEY: Senator Lowe, would you yield, please?

LOWE: Yes, I will.

CHAMBERS: Senator Lowe, I'm sure I heard you say you're opposed to this amendment. Is that correct?

LOWE: Yes, I am.

CHAMBERS: Thank you. I would like to ask Senator Hunt a question if she would yield.

FOLEY: Senator Hunt, would you yield, please?

HUNT: Yes, I will.

CHAMBERS: Senator Hunt, what is your position on this amendment?

HUNT: I'm going to oppose it.

CHAMBERS: Thank you, Senator Hunt. That's all I have. Members of the Legislature, when Chambers, Briese, Lowe, and Hunt agree on something, it has to be correct. Thank you.

FOLEY: Thank you, Senator Chambers. Senator Blood.

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

Floor Debate  
May 15, 2019

---

BLOOD: Thank you, Mr. President. Sorry, I didn't mean to be laughing. Fellow senators, friends all, I still stand in opposition to Senator Slama's amendment, but in full support of the General Affairs amendment, which ultimately becomes our underlying bill. The one thing I would say in the response to Senator Hilgers, using my very best lawyer speak that I learned from him, is that I would reply that there are a lot of these cases, as you also stated, and that the remedies that I cited are completely correct. With that said-- stop laughing, Senator Brandt --with that said, I respect Senator Slama's enthusiasm. I do not agree with her amendment, but one thing that I can tell you out of all the committees that I'm in is that General Affairs completely discusses each and every subject that is brought in front of us. Sometimes to a fault, where we have to meet multiple times on issues that should only take one meeting. But I respect what the final results are and the final results are what you see on the board today. My intention would have been to have amended LB137 into that bill-- can I get one more plug in? But that was not to be. No, I'm not going to make the motion. But I ask that you have respect for the committee and the process. We didn't do anything willy-nilly. When we are stuck on a question, we rely, as Senator Brandt said, on each other's expertise. We have excellent staff within the committee. When we have an underlying question that we can't answer amongst the people that sit on that committee, be it Senator Wayne, Senator Briese, Senator Blood, Senator Lowe, Senator Hunt, Senator Brandt, or Senator Moser and if I missed anybody, I'm sorry. Arch. He never talks. And Senator Arch. We don't make a decision. We wait until we have the answer. Again, to a fault. And so I ask that you please vote against Senator's well-intentioned-- Senator Slama's well-intentioned amendment. Please vote for the General Affairs amendment and support the underlying bill. And with that, believe it or not, should I have any time, I would ask that Senator Lowe use up the rest of my time. I know, surprise. Happy birthday.

FOLEY: Thank you, Senator Blood. Senator Lowe, 2:00.

LOWE: Thank you, Mr. President. I really don't have much more to say. I think everybody has made their point. This is-- we're not trying to filibuster anything. We just want to get our point out there that the committee has made a decision on this and you've heard from most of the committee members that we looked at this and we decided to take this portion out, AM1587, and discuss it over the interim because we all like to visit the Nebraska farm wineries and we enjoy

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

Floor Debate  
May 15, 2019

---

their business here in Nebraska and we don't want to hurt them. We want to come to a good solution. So, vote red on AM1587 and green on the other two. Thank you, Mr. President.

FOLEY: Thank you, Senator Lowe. Senator Slama, you're recognized to close on AM1587.

SLAMA: Thank you, Mr. President. I'd just would like to clear up a few things that were said in debate today. I appreciate the efficiency of debate and that both sides made their points. I'd like to correct for the record that the Liquor Control Commission is actually in neutral. However, they do face stacks and stacks of paperwork with these SDLs. This amendment was the result of LR382. So there's already been a study into what this amendment would do. And I'd also like to push back against the fact that this amendment was brought against the committee's wishes. If we're going to say that we have to automatically go with what the committee has found, then why bring any amendments to any committee amendment whatsoever. So I'd just like to push back on that quickly. I'd just like to reiterate this is a pro-small business, pro-Nebraska farm winery, anti-bureaucracy bill. So if you believe in those three things, I would truly encourage you to vote in favor of AM1587. Thank you, Mr. President.

FOLEY: Thank you, Senator Slama. Members, you heard the debate on AM1587. The question for the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 11 ayes, 21 nays on the amendment.

FOLEY: The amendment is not successful. Is there any further discussion on the bill or the pending committee amendment? I see none. Senator Briese, you're recognized to close on AM1359.

BRIESE: Thank you, Mr. President, and good afternoon, again, colleagues. I'd simply urge your support of AM1359. And I personally want to thank Senator Slama for bringing that previous amendment and generating some great discussion on the three-tier system and some of the various aspects of what we talked about there and the things that went into our decision making on this amendment. So, I'd urge your support. It's good legislation and serves to help one of our

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

homegrown industries and it can help to serve and promote local communities and grow our state. So, I'd urge your support on AM1359. Thank you, Mr. President.

FOLEY: Thank you, Senator Briese. The question for the body is the adoption of committee amendment, AM1359. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

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

FOLEY: Committee amendment, AM1359 is adopted. Is there any discussion of LB592 as amended? I see none. Senator Briese, you're recognized to close. He waives closing. The question for the body is the advance of LB592 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

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

FOLEY: LB592 advances. Proceeding on the agenda, Select File 2019 Speaker priority bill, LB300. Mr. Clerk.

CLERK: Mr. President, with respect to LB300, Senator Slama, I have no amendments to the bill.

FOLEY: Senator Slama.

SLAMA: Mr. President I move that LB300 be advanced to E&R for engrossing.

FOLEY: Members, you heard the motion to advance LB300 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB300 advances. Next bill is LB300A. Mr. Clerk.

CLERK: LB300A, Senator, I have E&R amendments first of all.

FOLEY: Senator Slama.

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

Floor Debate  
May 15, 2019

---

SLAMA: Mr. President, I move that the E&R amendments to LB300A be adopted.

FOLEY: It's a debatable motion. Senator Chambers, you're recognized.

CHAMBERS: Thank you. Mr. President, members of the Legislature, what I have to say could be said on either bill, but to make it clear that I was not going to take much time, I'll let the main bill go through. Somebody had said when I was speaking the other day that they bet somebody would be listening, and I don't know who the somebody that-- whoever said that was referring to, but somebody did listen. I was given a message. It is no longer necessary for me to say anything. And when the reason for something goes away, there's no need to do that for which there no longer is a reason. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Members, you have heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk.

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

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB300A be advanced to E&R for engrossing.

FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB300A advances. Speaker Scheer.

SCHEER: Thank you, Mr. President. Colleagues, we're running a little ahead of schedule which is, I know, not breaking anyone's heart. We're going to swap and go to LB294 and do the budget. We'll probably get just about an hour in before we break for dinner. We'll take a 45-minute break, come back at 5:30 and finish up with the budget and then go to LB110. So if you'll proceed to the budget, please. Thank you.

FOLEY: Thank you Mr. Speaker. Items for the record, first, please.

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

Floor Debate  
May 15, 2019

---

CLERK: Mr. President, thank you. Motion, Senator Groene would move to place LB147 on General File pursuant to Rule 3, Section 20(b). That will be laid over. I have a new A bill. Senator Lathrop offers LB686A. (Read LB686A by title for the first time.) Amendments to be printed: Senator La Grone to LB470; Senator Groene to LB147. Mr. President, returning to the mainline budget bill, LB294. The Enrollment and Review amendments were adopted last evening. When the Legislature left the issue, pending was AM1746 as offered by the Appropriations Committee.

FOLEY: Senator Stinner, if you would you like to give us just a brief overview of where we left off.

STINNER: Thank you, Mr. President. Members of the Legislature, AM746 is the Appropriations Committee adjustments to the mainline budget bill. There are 22 items included. However, all but three are either technical changes or items that have been incorrectly omitted in the original committee amendment. At the time the committee budget was set, the insurance premium, tax amounts for both fiscal year '20 and '21 were estimates. Since then, the final insurance premium tax number for fiscal year '20 is available and is 2.6 million higher than the original estimate and 2.2 million higher than the fiscal year ended '22. Additionally, the savings on LB675 related to change on fiscal year '20, basic growth rates were \$402,007 higher than the original incorporated into the committee proposal. This amendment reduces fiscal year '20 appropriations by that amount. LB675 actual savings were 12,066,443 versus 11,664,436 used in the committee proposal. The two-year General Fund savings amounts to 5,252,172. The Secretary of State's ADA voting equipment replacement, the committee's original proposal includes 6.3 million in cash funds for the replacement of state owned voting equipment our counties are using and are near the end of the equipment life cycle. Also included in the Secretary of State's original request was 6 million to replace the existing equipment which complies with the Americans for Disabilities Act or ADA. However, funding was not available for this item in the original committee proposal. With savings derived from the insurance premium tax adjustment, NTO said this amendment to LB294 provides 4 million of General Funds and 1 million of federal Help America Vote Act funds, or HAVA, to let the Secretary of State replace the ADA equipment. Number two, the Attorney's General based-funding restoration transfer from the cash funds, the committee originally recommended-- recommendation included a \$500,000 per year

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

Floor Debate  
May 15, 2019

---

General Funds reduction to better reflect the historical expenditure levels. However, due to potential litigation the office may face in the upcoming biennium, the Attorney General came forward with a proposal to restore 295,957. Of this cut each year in order to make this net to zero impact on the General Funds, said amount of funding would be transferred from the State Settlement Cash Fund to the General Fund. Thank you, Mr. President.

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

CLERK: Mr. President, Senator Clements would move to amend the committee amendment with AM-- or excuse me, FA79.

FOLEY: Senator Clements, you're recognized to open on FA79.

CLEMENTS: Thank you, Mr. President. We discussed this quite a bit last night. Yesterday, whenever it was, excuse me, but my amendment affects AM1746 just in Section 6. I support all the other sections of AM1746. And Section 6, to refresh your memory, is inserting LB181 introduced by Senator Bolz, and it's being inserted into this amendment and to the budget. It's a study of long-term care in Nebraska and it's-- it was --Department of Health and Human Services testified in opposition to LB181 and mainly because they said the department already completes the Long Term Care Redesign study. The amendment is really not necessary. It places additional administrative mandates and requirements on Department of Health and Human Services. And it has quite a few provisions of requirements of analyzing future trends and sustainability plan, analysis of regulations, which-- the kind of things that I thought Health and Human Services Committee should be responsible for. And also that this report that was mandated in Section 6 is to be delivered to the Appropriations Committee and did not have Health and Human Services Committee involved in it. And so, just briefly to close, I think it should have been a Health and Human Services bill separately outside the budget. Health and Human Services is able to do this without this amendment. It doesn't affect funding of nursing homes in the budget. I did support all the nursing home funding in the budget and I would appreciate your green vote on FA79. Thank you, Mr. President.

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

Floor Debate  
May 15, 2019

---

FOLEY: Thank you, Senator Clements. Debate is now open on LB294 and the pending amendments. Senator Erdman.

ERDMAN: Thank you, Lieutenant Governor. I appreciate that. Thank you, Senator Clements for introducing this amendment. Senator Clements did a nice job explaining exactly why he has introduced this amendment. This whole provision was something that we've seen very late in the process. As I described the other day and it was brought to us at the last hour. Said it was technical in nature. That is not exactly what it was. I am in support of Senator Clements amendment. We already do this. It's my understanding it's difficult to use federal funds to match federal funds. I think this is very inappropriate. We are in the process of trying to pass a budget that makes sense and I don't know that this makes any sense at all. I am in favor of FA79, Senator Clements' amendment. I am in favor of the rest of that amendment. I am not in favor of LB294. It is a budget that I think is too costly. It's a 3.2 percent increase. We shared yesterday-- I shared yesterday on the mike after Senator Wayne had suggested we talk about things rather than waste time, and I suggest that how we get property tax relief is we cut spending. And I believe that this budget does not cut spending and I will not be voting for LB294, but I will be voting for the amendment in case the budget does pass. Thank you.

FOLEY: Thank you, Senator Erdman. Senator Lowe.

LOWE: Thank you, Mr. President. We have a problem in our state. The state government continues to grow while the ability of people in Nebraska to pay their property taxes decrease. We need to work together to address this problem. Before I go on, I clearly want to state that I respect the work that Senator Stinner and the Appropriations Committee has done. They had a very hard job and I know how much thought and effort they put into their work. I do not want my comments to be seen as an attack on any of them personally or condemned of their care and effort. The fact is simply that all the entities generate waste through inefficiency. This is true for state and local governments. It is also true for every business and nonprofit, no matter how large or how small. It is the unavoidable nature of human run entity. We are imperfect creatures. And so the things we create and run are also imperfect. When it comes to the particular responsibilities of government, we need to take special care to be as efficient and effective as possible because we are dealing with other people's money. One of the largest departments in our



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

Floor Debate  
May 15, 2019

---

state government is the Department of Health and Human Services. It is a large organization with many employees and responsibilities. They also are responsible for one of the largest budgets in our state, and as a state entity, have responsibility to use it as effectively as they can. I have a hard time believing if we have a professional with an outside perspective take a look-- deep look at the Department of Health and Human Services, they cannot find a one, two, three, or 4 percent savings across the board in the agency. This could only help the Department of Health and Human Services perform their function in state government more effectively as well as more efficiently. But, again, this could be the case for most of our state government agencies. And I am positive that it would have been the case for any of the businesses and restaurants that even I ran. Over the interim, I hope to take-- continue the conversation of ways that we can look for and make cuts to portions of our state government that are not 100 percent effective without impeding the effectiveness of our state agencies. I have an amendment that I was going to drop on this bill that would take \$5 million from one of the state agencies, from the Department of Health and Human Services. I think we need to take a look at the way we spend our money and find those efficiencies. And we're going to take a look this summer over the interim to do a study on efficiencies in our state. You know we're not spending our money, we're not spending the state's money, we're spending every person's money there in the state. We're spending the grandparents, we're spending the people that can hardly get by, it is their money. Let's do it efficiently and effective so that they can enjoy some of their money and they can keep the money in their pockets. Thank you, Mr. President.

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

CLEMENTS: Thank you, Mr. President. I think the committee did work hard on the budget and I'm going to just yield my time back until we get to the-- pass this amendment. I'd like to get a vote on FA79, so I yield my time to the Chair.

SCHEER: Thank you, Senator Clements. Senator Bolz, you're recognized. While she's coming, those waiting to speak: Senator Arch, Howard, Cavanaugh, and others. Senator Bolz, you're recognized.

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

Floor Debate  
May 15, 2019

---

BOLZ: Thank you, Mr. President. I just want to clear the air on a few things and address a few of the things that came up on the debate today. First, Senator Clements, would you yield to a question.

SCHEER: Senator Clements, would you please yield?

CLEMENTS: Yes.

BOLZ: Thank you, Senator Clements. Are you available to stay on the floor and listen to my comments for a few minutes?

CLEMENTS: Yes.

BOLZ: Very good. Are you listening?

CLEMENTS: Yes.

BOLZ: Thank you. Okay. So I want to be very clear and I want to make sure that you hear what I have to say here. First is, I have read the Medicaid Long-Term Care Redesign Plan. It's pretty lengthy. Not only did I read the Medicaid Long-Term Care Redesign Plan, I was a member of the stakeholder groups that helped put that plan together. Some of the things that the Long-Term Care Redesign Plan contains are recommendations around electronic visit verification, establishing fiscal agents for independent providers of the healthcare services, establishing a no wrong door entry system for aging and disabled individuals, creating a standardized assessment for folks entering our Health and Human Services system, and providing some consolidation for administration for home and community-based services. So that is very different, and does not address the issues brought up in LB181. And you were a part of that hearing, so you know that in LB181 we're talking about assessing the risk factors for nursing facilities and home and community services for seniors, including reimbursement rates, work force scarcity, unreimbursed long distance travel, facility closures relating to job losses and policy barriers. So I just want to be very clear that those two things are very different. And because I've participated in the Medicaid Long Term Care Redesign Plan, I do know for sure that that is the case. The

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

Floor Debate  
May 15, 2019

---

second thing I want to talk about is the administrative burden. And you referenced, if I understand correctly, Senator Clements, that you're concerned about adding administrative burdens to the Department of Health and Human Services, is that correct?

CLEMENTS: Yes.

BOLZ: Okay. So what I want to be very clear about is in the language that was put into LB181 and in the language that we are talking about today, this requires the Department of Health and Human Services to work with an outside contracted agency. And if you remember, we worked with an outside contracted agency with the disability rates study. So that consultant provided that information. We do that in a number of different ways. We're also working with a consultant through the Homestead Plan that Senator Walz has been working with. And so I guess I dispute your observation that we would be adding significant administrative burden to add this workload. I don't dispute that there would be some responsibilities of the Department of Health and Human Services to work with that entity, but I think your concerns about the burden maybe aren't quite as burdensome as seem to be articulated. Would Senator Erdman yield to a question?

SCHEER: Senator Erdman, would you please yield?

ERDMAN: Yes.

BOLZ: Senator Erdman, I think you expressed a concern that this was-- and forgive me, I'm not sure I'm getting the phrasing right, but that this was sort of slid in? Was that a concern you expressed?

ERDMAN: Yes.

BOLZ: Okay. Thank you. I want to address that concern too. First, we had a hearing on LB181. We voted it out of committee as a part of the mainline budget. It was just a mistake that it didn't get wrapped up into our very comprehensive budget bill. So we voted on it again in the committee amendment. So we voted on this a couple of times.

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

Floor Debate  
May 15, 2019

---

SCHEER: One minute.

BOLZ: And just like anything else that comes through this body, we are talking about this issue on NET television, on the floor, we are being very transparent. The amendment language was filed. It's for anyone's view on your gadget, as Senator Chambers would say, so I want to address those concerns. I don't think it's duplicative of the Medicare Long-Term Care Redesign study. I don't think it's unduly burdensome to the Department of Health and Human Services and I do think that this issue was brought in a very transparent way through the hearing, through a committee vote, through an amendment vote, and now again in our debate on the floor. So just wanted to make sure that we had a clear record on those issues. I care very much about nursing facilities. My grandpa passed this year and he was in an excellent nursing facility, actually in my own district. So this issue is an issue that's very close to my heart, and an issue that I bring forward to you in a very sincere way, in a very transparent way.

SCHEER: Time, Senator.

BOLZ: Thank you, Mr. President.

SCHEER: Thank you, Senator Bolz, Senator Clements, and Senator Erdman. Senator Arch, you're recognized.

ARCH: Thank you, Mr. President. First of all, I want to say I appreciate the additional time we're spending today on LB294. It is, by far, probably the most-- not probably, it is by far the most important bill that we debate each year, and this being no exception, and given the size and given the complexity, I appreciate the additional time. I am in support of the FA79 and I just wanted to explain in part some of the issues that I have. I think in yesterdays-- well, let me start with something a little bit different here. I think that Senator Stinner and the Appropriations Committee has worked diligently to try to keep policy and administrative issues out of the Appropriations bill and has done a really good job with that. And from my perspective I think the insertion of this language probably goes against that but we-- because we have here now inserted what I would consider to be policy. Yesterday when we were talking about it very early on in the six hours of debate yesterday, very early on we discussed the issue of policy and HHS

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

Floor Debate  
May 15, 2019

---

taking up LB468, which is now in General File moving to Select and it is a bill that places a moratorium on implementing a managed care of the MCOs with, in heritage health with long-term care. That's moving forward and this is a similar issue. And again, Senator Bolz is extremely knowledgeable of these issues, a very deep background in the issues. And, however, I believe that the insertion of this into the Appropriations bill is inappropriate and it is policy. One of the other things that was mentioned yesterday was that it was really not administrative and again, I read it differently. When I go to page 4 of the amendment in AM1746 and I read that one of the directions in the development of this plan is to create a financially sustainable five-year plan for ensuring that aging Nebraskans continue to have access to long-term care services they need in close proximity to their familial and social support systems, I read that as administrative and I read that as policy. And so, I feel as though that this is something that the HHS Committee should have dealt with. Had we known about it, we probably would have dealt with it at the same time we were dealing with a moratorium on long-term care and MCOs. We know that we have issues with the long-term care facilities and with reimbursement and with administrative issues, and we know that we have those issues. I don't think that it is in the best interest of the legislative body, or the best interest of the long-term care industry and the patients in those facilities, to scatter these issues to various committees. For that reason, I believe that it would be-- that this floor amendment should be supported and we will take up the issue. Thank you.

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

HOWARD: Thank you, Mr. President, good afternoon, colleagues. I rise in opposition to FA79 because I actually think it's removing a really significant part of how the state views long-term care and long-term supports and services. Senator Arch was very kind to bring up LB468. What's really interesting about LB468, and I'm really glad that we're continuing to have a conversation about it, is that LB468 actually contemplated in its green copy an evaluation very similar to what's been put forward in AM1746. The committee itself decided not to include the evaluation in its committee amendment because of the cost. They felt that it was too expensive and so Senator Walz actually had that removed in a committee amendment. At the time, we didn't know that there were federal funds that would be available for a match for this type of evaluation, and we also didn't know that the Nursing Quality Cash Fund was available to us. That's actually something that would be appropriate for an Appropriations bill. But when I think about whether

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

Floor Debate  
May 15, 2019

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or not we're inserting policy, because that's a really good argument, Senator Arch, actually, I go back to AM1329 which was the original committee amendment to LB294. And so I read through it a couple of times and I've tabbed all the areas where we've actually inserted something that looks exactly like AM1746. And most of these revolve around healthcare issues. These are things like, we're going to fund a study for tobacco cessation, we're going to fund a study for Parkinson's, and we're going to tell you what's within the confines of the study. So if you're curious about what we've done that looks like policy, that looks just like AM1746 in the budget, you're welcome to stop by my desk and sort of look at all of the highlighted and tabbed areas that were in the original committee amendment that we have already adopted. I also want to address, Senator Lowe was kind enough to point out that we really do need to evaluate how we are spending money within our Department of Health and Human Services, but we also need to evaluate whether or not we're providing appropriate oversight to contractors, whether or not we're fulfilling our federal compliance requirements and I go back to what we talked about yesterday. When we forget to fulfill our federal compliance requirements, and for long-term care there are several because we've got to maintain facility licensure, we've also got to maintain our Medicaid requirements through our fee for services in MMIS. When we do not meet those requirements because we have underfunded our Health and Human Services Department, we end up paying enormous fines. So, I'll go back to 2008 when it was \$50 million, about Beatrice. That was the fine there. I go back to 25.2 millions when we had a failed effort to privatize child welfare. That went very badly. I have a myriad of examples of when we didn't fund Health and Human Services appropriately and then we ended up having to pay money back to the federal government, which is exactly why we don't have money for property tax relief because we have burned money in a barrel not really ensuring appropriate compliance within our Health and Human Services Department. But more than anything, more than anything, I want us to remember that there are actual lives at stake. March 31st of this year, there were over 4,000 kids in out-of-home placement in the state of Nebraska. We don't even have 2 million people living in the state of Nebraska and we have 4,000 kids in out-of-home placement. In the last year, the last fiscal year that we're looking at for child deaths, we've had the highest rates of child mortalities than we have ever had in the history of the state. Twenty-three kids have already died this year and it's not even July 1 when we restart our fiscal year.

SCHEER: One minute.

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Transcriber's Office  
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Floor Debate  
May 15, 2019

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HOWARD: So, I really want us to be mindful when we think about Health and Human Services, when we think about what we're paying for, when we think about where this money is going, it's not just federal compliance so we don't have to pay fines. It's also there's also a human component. And when I think about AM1746, we cannot make good choices as policymakers especially in the long-term care space unless we have a broad range of information. We got rid of the evaluation in LB648 because we couldn't afford it. And our Appropriations Committee was wise enough to find a way that we could with a federal match. So for every dollar that we spend, we're going to get a dollar back for doing it. And it's going to provide us as policymakers a lot of information that is relevant to our work to ensure that the long-term care space remains viable for our most vulnerable elderly citizens. So I oppose FA79 and I would urge the adoption of AM1746. And this is the most fired up I've ever been on the floor. Thank you, Mr. President.

SCHEER: Thank you, Senator Howard. Senator Cavanaugh, you're recognized. Those waiting to speak: Cavanaugh, Stinner, Hansen, and others.

CAVANAUGH: Thank you, Mr. President. I don't know if that's true, Senator Howard. I think you get pretty fired up about the opioid epidemic in Nebraska and in the country, but it might be a close second. Colleagues, I rise in support of LB249, AM1746, and I am opposed to FA79. I have had a chance to look over in more detail since yesterday evening when I spoke with Senator Clements on the microphone about his amendment striking Section 6, and looking over Section 6 in the amendment that he wants to strike, and I very much disagree with this notion. And though I do appreciate that it would have been nice to have this come out of HHS, but for all the reasons that Senator Howard spoke to, it did not come out of HHS, including the ever dooming fiscal note. And we all know we're trying to avoid to kick out of our committees and fortunately, the Appropriations Committee did their due diligence, found the funding, found the federal match, so this is very important and necessary endeavor to protect our vulnerable populations. I encourage you all to take a look at the amendment. AM1746, it's striking Section 6 which starts at the bottom of page 2, line 30 and it goes through a lot. It's talking about providing us with detailed analysis of the current and projected future needs of aging Nebraskans and current gaps in facilities based in home and community-based long-term care services in areas of the state and factors contributing to such gaps. This is something that is really important for us as legislators to know if we're going to adequately take care of these populations, we need to know what the

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

Floor Debate  
May 15, 2019

---

needs are and what those needs-- how they're being met or not being met. So I am grateful to the Appropriations Committee, I am grateful to Senator Bolz, I'm grateful to the Chairman, Senator Stinner for making sure that this goes through and is included in our budget. Additionally, it provides regulations and processes that impede the analysis of regulations and processes, that impede the flexibility for nursing facilities to provide home and community-based long-term care when there is an identified community need. We should be wanting to know what these are. We should be wanting to know what these pinch points are in our care system and how we can help free them up to have the flexibility to provide the care that is needed. Because that can be really costly bureaucracy that we don't even know exists because we're not getting a report on it. We don't have the analysis. And this would provide the funding and the opportunity to get such important analysis. And that additional analysis would be the financial stability of long-term care providers that accept participants in Medical Assistance Programs, especially nursing facilities and contributing factors. We heard over and over again yesterday about the financial insecurity of long-term care of these nursing facilities especially in our smaller communities. And I, for one, would really like to know what the financial health and well-being is of our nursing facilities across the state and what we as a Legislature can be doing to help lift that up. This is a good amendment. Section 6 of Senator Bolz amendment is a necessary and important amendment to take care of our vulnerable population across the state.

SCHEER: One minute.

CAVANAUGH: Thank you, Mr. Speaker. And with that, I would yield the remainder of my time to Senator Bolz if she would like it.

SCHEER: Senator Bolz, 50 seconds.

BOLZ: Thank you, Mr. President. I think you said it very well. I think the only other thing I would have to say, you know I would appropriate a red vote on FA79, the floor amendment. But I would like to remind the rest of the body how important the rest of the committee amendment is and it only has my name on it because Senator Stinner was out of town. We're funding election technology, we're fixing education funding, we're making some other technical changes and that



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

Floor Debate  
May 15, 2019

---

committee amendment really is important. So red on FA79, green on AM1746. Thank you, Mr. President.

SCHEER: Thank you, Senator Cavanaugh and Senator Bolz. Senator Stinner, you're recognized.

STINNER: Thank you, Mr. President. I don't intend on speaking very long today. If you listened yesterday, I took you all through the budget and I stayed with the budget, except for this one comment about nursing homes. Folks, this is a referencing issue. It was referenced to my committee. Believe me, if you sat with me at all, if there's a question whether it goes to Appropriations or HHS or whatever, it's going to the other committee. I don't need a whole lot of bills. But we did have a hearing on it, folks. There's nothing underhanded other than the fact that it ended up in this particular amendment because we forgot to put it in the budget in the first place. Now, do we need a study or don't we need a study? Do we have a crisis or don't we? That's the issue. Just because Bolz is up there as a name, it could be Stinner, it could be Arch, it could be anybody. We need to have a study. It needs to be comprehensive, it needs to be deep, and when you get the study and put the bill together that's going to correct some of these deficiencies, it will go to HHS. You understand that. I hope you understand that. And if you don't think I'm going to defend this budget, you got something else coming. I will defend everything in this budget because we worked on it as a committee, we spent four solid months. So if you don't want to listen-- I'm going to sit down, I'm going to let you guys all talk and if I see something that I need to talk on again, you bet I'm going to defend it. Thank you, Mr. President.

SCHEER: Thank you, Senator Stinner. Senator Vargas, [COUGH], excuse me, Senator Vargas, you're recognized.

VARGAS: You, okay? Okay. Thank you very much President, Speaker. I echo Senator Stinner. It's not only because it's such a unique committee. We're in there the entire year. We're in one room. It's a very inner process. I know not everybody fully understands every aspect of what we do, but I assure you that it is-- it's not done lightly. And we do have expertise in our fiscal analyst that provide us with the historical trends and where we're headed and what we really need to do. What are nice to haves. I also agree this is more of a referencing issue. It was brought to us and there wasn't an Executive Board when there's something that's brought to us and it's not meant to

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

Floor Debate  
May 15, 2019

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be there. Somebody might request for it to move somewhere else. That's not an issue. That's not what happens, so we deal with the bills that are in front of us. That's what we're dealing with here. I don't want to take too much time to talk about that. I am proud of the process we went through. I'm proud of the budget. It's definitely not everything I would have, myself, put in, but that's not how this works. You make some level of concessions. You say no sometimes, you say yes sometimes, and people win and lose and that's just the process here. But I did want to highlight a couple of different things from the budget. One that I-- it is a special place in my heart for this that the Nebraska Opportunity Grants program and the reason why I want to bring it up is I am a first generation college student and-- sorry, first generation college graduate and, you know, my parents were born and raised in Peru and I came here and I was a Pell Grant recipient. Affording college came as a result of working 20-plus hours a week, also taking out loans, and was able to take out grants like this in the state I grew up. And this program is important for that. One unique piece of this program, if anybody ever debates whether or not we are putting money and investing in our higher education and future, this is making it more affordable for people that are not currently able to afford higher education to then be able to do so. Because if they do not get a degree, we know what the data tells us, you are much less likely to be self-sufficient and support yourself and your family and your average or annual household income drops significantly and we know what happens from then on in. Statistically, you're much more less likely to lose out on your generational wealth that impacts your entire family and every generation from thereon in. And so, I do think college affordability is really important. And the Nebraska Opportunity Grant is public dollars going to all different types of institutions. We're talking about University of Nebraska, community colleges, private institutions and colleges, state college systems, independent colleges, universities, you name it. So these are public funds being used for all across the gamut and we're not meeting the needs yet. The heyday of when we were meeting the needs-- it's not even a heyday. What I mean is, during the 2011, 2012 years we were actually funding this to meet as much as we could. We are not where we need to be in terms of funding. The average award is somewhere around \$1,500. That's nice. It's good. It's a great step in the right direction and I believe it's going to help people. I'd rather see us continuing to make these awards meet the actual need of individuals that are Pell Grant recipients. That is the marker that we're using for need. People that wouldn't be able to afford it otherwise. This is a good program. I'm happy that we continue to fund it and support it and I-- and the oversight on it is also good.

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

Floor Debate  
May 15, 2019

---

SCHEER: One minute.

VARGAS: I encourage people to read the report coming out of the Coordinating Commission. It will show you that this is something that we need to continue to invest in. But the reason I want to talk about it is because we're not going to get to a place where we have an educated work force if people can't even afford to get into the schools that we currently have. That's just one aspect of what we talk about when we're dealing with this budget that we've invested in. So I urge you to support this bill, not only because of my own background and story, but more importantly I am one example of many first generation college students, people that can't afford it, that need help. And this is something that I think we-- we invest in programs that historically have worked. We will not try to do something new. If it ain't broke, don't fix it and that's one of these instances. And I think it's just a very, very sound decision that we made to continue to invest in and I hope we continue to do that because college affordability is an issue. I'll probably talk on the mike again and talk about a couple different other items that I mentioned previously, probably provider rates will be the next thing I talk about. But I want to thank you and ask for your support of LB294.

SCHEER: Time, Senator. Thank you, Senator Vargas. Senator Bostelman, you're recognized.

BOSTELMAN: Yield my time to Senator Arch.

SCHEER: Senator Arch, 4:55.

ARCH: Thank you. Senator Bolz, could I ask you a couple more questions and I promise this is going to be the end of it on the questions. I just have a couple.

SCHEER: Senator Bolz, would you please yield?

BOLZ: Sure.

ARCH: Thank you. Yesterday during the debate, I think it was Senator Kolterman that asked you the dates on this particular study, the-- if federal funding is approved under this section on or

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

Floor Debate  
May 15, 2019

---

before December 31, 2020, and it was-- and then later on it talks about December 1, 2020, being the delivery of the report. Could you remind us again how those dates coordinate.

BOLZ: Sure. So, there were two issues related to the date. The first issue was related to the actual implementation of the study and being able to draw down the federal funds. The second was how that lines up with recommendations regarding long-term managed care. The first part, when we had the hearing on this bill, the administration came in and said that the way that we had originally drafted the bill would create a little bit of a challenge in terms of their time frame. So we changed the dates to give them maximum flexibility with the idea that if the Legislature directed them to work with the federal government and do the study, that they would do that in good faith. And I have no reason to say why not-- to say that they would not. So we gave them as much flexibility as we could at their request after the testimony on the mike. The second part which was Senator Kolterman's question regarding the Medicaid Long Term Care managed care transition and how that intersects with LB468. It's my vision that we would have the complete study as contemplated in AM1746 done by the end of 2020 which would give that information to the Legislature and the Department of Health and Human Services in preparation for making decisions after the delay that we are contemplating in LB468. So I think things mesh up quite well and our intent was to respond to the department's request that we give them more flexibility. There is a status report required in the language as is put into AM1746 so that we know that the contractor is doing due diligence and they're making adequate progress. So I think I took a ton of your time but that's my most complete answer to your question.

ARCH: Thank you and one last question. Do you see this study in any way preventing or stopping the Department of HHS from proceeding with any changes in reimbursement? Any changes in reimbursement methodology? Does this stop them from proceeding again towards MCOs? This is not-- you know MCOs is not something that you throw a switch and it starts tomorrow. This is going to take some time. Do you see this in any way preventing them from proceeding?

BOLZ: I do not. And one of the things that I know about managed care is that there are things that are required of managed care companies. Things like, for example, adequate network access. So you have to have access to facilities and you have to have access to physicians. You're

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

Floor Debate  
May 15, 2019

---

probably very familiar. But if this study does what I hope it will do, we will have a better picture of what our statewide network and our adequacy looks like which could be very informative to any managed care company.

ARCH: I appreciate your expression of the intent. I think there could be some-- I think people could be reading it differently, but thank you very much for your answers.

BOLZ: Sure.

SCHEER: Thank you Senator Arch and Senator Bolz. Those waiting to speak: Senator Ben Hansen, Senator Groene, Bolz, and Halloran. Senator Ben Hansen, you're recognized.

B. HANSEN: Thank you, Mr. Speaker. So, I'm here in an effort to do what many of us have said we would do, cut spending and provide proper tax relief. And I want to thank Senator Stinner, the members of the Appropriations Committee and the staff who worked on the committee's budget proposal. I know you've had to make some tough decisions on getting us where we are today with a budget that's in front of us today. Our Unicameral Legislature is made up of 49 senators from 49 districts and we answer to 49 different sets of constituents. The idea that we are required to pass a budget, we had minimal input on prior to it coming to the floor is something that everyone in the state should question. And the floor is where the rest of us who do not serve on Appropriations have an opportunity to shape their priorities of our state. What quantifies and clarifies our priorities more than where we spend our money? This reminds me of a quote I once heard from a great economist, Milton Freeman. Cutting government spending and government intrusion in the economy will most surely involve immediate gain for the many, short-term pain for the few, and long-term gain for all. Our state needs property tax relief, and it needs our government to be run like a business, not like a nonprofit. This money we are debating is our constituents money. It's Nebraskan's money. Most Nebraskans do not have the capacity to increase their spending simply because they want to, it's not possible for them. They have to be responsible with their personal budgets and they expect us to be good stewards of their tax dollars and do the same as they would in their home. This budget, accounting for a 3 percent increase in spending of the biennium, and 3.7 percent the first year, is too much. In a business budget, the team identifies a broad targeted goal and then works backwards to make that goal

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

Floor Debate  
May 15, 2019

---

happen. So what was the goal of this budget? What main priorities have we identified as a state? Was it property tax relief? It's hard to imagine it with us removing \$25 million from the property tax relief fund, 25 million that us as a Legislature, thankfully, voted to put back into the fund. Let us not forget, we do have families leaving our state to retire or farm in other neighboring states because of their property tax burden specifically. I know we've all heard it. Some of you might be asking, well, what is your proposal? Let's reduce our spending rather than reducing our growth. Let's do this by reducing spending one penny for every dollar spent, one penny. This is something families all across the state have had to do at their time. I believe that the government should be responsible for certain priorities including infrastructure, federally required spending, protection for our citizens, which includes the Corrections facilities, K-12 instruction as required by our constitution, and taking care of the most vulnerable in our state and our society, including the developmentally disabled in conjunction with private and charitable entities. So in conclusion, there are some requirements for increased spending, I get that, but we need to take a look at-- a hard look at any new spending now and in the future. I know there's only so much we can do now. Instead, direct that money to property tax relief. When Nebraskans are safe, provided education, and have more money in their pocket instead of in our state coffers, that's when we know we've done our job effectively. Thank you, Mr. President.

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

GROENE: Thank you, Mr. President. I don't believe I stood up but once yesterday on this bill. I keep getting e-mails and people telling me we spend too much, we spend too much. That's the answer. This budget, to me, is too high. And when we're already short on money to come up with a little niche of spending some more money on a study that, I agree with Senator Arch, if I caught his drift. I read the original LB181. Everything in there tells me it should have went to the HHS Committee. On Education, we get every year somebody wants to do a commission or a study on TEEOSA. That always comes to us, doesn't go to Appropriations, and it better not in the future. This is a study with a major issue for HHS and I've got some problems here. It's being reported to the Appropriations Committee when everything I read in here would have to be legislation that comes out of the HHS Committee to address their findings. I have another real problem with the fact that every one of these I've ever seen before, it is reported to the Clerk of the Legislature so all 49 senators have access to the study. So the Appropriations members get

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

Floor Debate  
May 15, 2019

---

this. What are they going to do with it? Are they going-- is the Appropriations Committee going to come up with a bill, and one of its members, and then take it to the Exec Committee and bring it back to them. Even though I heard Senator Stinner say no. If that's the case, why isn't this in HHS Committee? Why isn't it being reported to the Clerk of the Legislature for all of us to see? And why isn't it going directly to the committee that will have to come up with legislation to address it? This is another bad precedent we're setting here. An individual who has a bill wants the bill to come to the committee where they have a vote. Well, I've got some bills I would like to take directly to Education Committee, or the Revenue Committee, because I would have one of the five votes necessary to get something done. I'm not blaming Senator Bolz. You do what you can to get done what you came here to do, but I'd like an explanation for some of the folks on the Exec Committee why this ever ended up at Appropriations. And Senator Bolz, would you take a question?

SCHEER: Senator Bolz, would you please yield?

BOLZ: I'd be happy to.

GROENE: Why didn't-- in your bill you have it reported to the HHS Committee and why, like normal, didn't you have it reported to the Clerk of the Legislature?

BOLZ: Those are reasonable questions. The way we drafted it, the thing that was most on my mind was reimbursement rates and the adequacy of rates to manage the nursing facilities. And, you know, I sort of see through an appropriator's perspective, so I thought it would be most valuable to the Appropriations Committee. You know, it's my commitment. Sorry.

GROENE: Thank you. So on all the rates, that's a decision by the Appropriations Committee, the HHS Committee has no say in that or the Governor?

BOLZ: The rates are recommended to the body by the Appropriations Committee. They're typically informed either by a rates study, like we did in the Division of Behavioral Health and the Developmental Disabilities rates. Those are completed by the department, or it's-- we have typically tried to increase rates at the same level for all kinds of providers.

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

Floor Debate  
May 15, 2019

---

SCHEER: One minute.

GROENE: Thank you. Thank you, anyway. I still believe this should have-- I'm going to vote for FA79 just for principle. We have to protect integrity of the committee system. And this don't belong in the Appropriations Committee. We have to have the checks, the balances where is it goes through a committee for vetting. That the members are familiar with the topic. Then it goes from there, if there's an A bill, to Appropriations, then Appropriations tells us that they can fund it. But going directly to-- we've seen too much of this. We've seen two or three of these where it's going directly to Appropriations Committee for funding and on most of them say, until funds are available. So now all the lobby has to do is lobby five members in the Appropriations Committee, buy them a steak, to get funding the next year or two-years later. That shouldn't be that way. The funding should be defined in the bill as far as I'm concerned.

SCHEER: Time, Senator.

GROENE: Thank you.

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

BOLZ: Thank you, Mr. President. I want to address a few things that have come up on the floor. Is Senator Ben Hansen available? Senator Ben Hansen, if you're in the building, I'd love to have a dialogue with you. I'll keep talking while Senator Ben Hansen maybe finds his way to the floor. The first thing I want to say is in terms of cutting spending, I want to be very, very clear about what this proposal is. We are funding this study from the Nursing Facility Penalty Cash Fund. The Nursing Facility Penalty Cash Fund comes from fines and fees from nonprofit and for-profit nursing facilities, not from state taxpayers. Further, the utilization of these funds for this purpose was approved in LB22. LB22 was signed by the Governor in March and was passed by this body in a favorable vote of 45-0-4. So, first it's not taxpayer dollars, it is fines and fees from nursing facilities. Second, it is an appropriate use as voted on and approved by this body and signed by the Governor. But what I really wanted to have a dialogue with you about, Senator Hansen, is your comments about cutting spending and managing our state budget.



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

Floor Debate  
May 15, 2019

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SCHEER: Senator Hansen, would please yield?

B. HANSEN: Yep.

BOLZ: Thank you very much. Senator Hansen, you're a first-year senator, is that right?

B. HANSEN: Yes.

BOLZ: Okay. So what I wanted to talk to you about a little bit is some of the cuts that we've made in previous budgets because a 3 percent growth budget on top of very austere years, I think is pretty reasonable. And I appreciate that you weren't here for those previous budgets so I just want to run you through some of the numbers. In 2017, we had a pretty rough year and we did something unprecedented. We did two budgets. The first budget was a deficit budget. In other words, a cost saving budget for the current fiscal year. And then we did a second budget for the out-biennium. In the deficit budget package we made across the board cuts for a total of 37.6 million and we made specific cuts of 50.79 million. Across the board cuts were things like Department of Education and Administration. Specific cuts were things like cuts to the Storm Water Grant Program. In the biennial budget last time, we made a number of decisions that were really very difficult. In fiscal year '19, we kept provider rates flat, which meant that we didn't provide a cost of living increase to clinic services, family planning services, capitation payments, nursing facilities, home health, assisted living, inpatient, mental hospitals and others. And being in the healthcare industry, you understand how challenging that would be to run a business on no growth at all. We also were unable to keep up with cost of funding our university and over that three-year time frame, the deficit budget in the biennial, we actually ended up cutting the university by negative 8.5 percent and the community college by about 8 percent. So other cuts that we made added up to 160 million in the last biennial budget. So I just-- I want to assure people who have concerns about spending, that we-- this is a very modest budget. If we look to a bigger, longer picture, and that longer picture includes the last three years where we not only had to implement cuts but had to implement very austere measures. So I'm hopeful that helps you put that in context a little bit. I also wanted to share-- you mentioned serving vulnerable populations and that sounds like that's something important to you. Is that right, Senator Hansen?

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

Floor Debate  
May 15, 2019

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B. HANSEN: Yes.

BOLZ: Okay. So I want to share that, you know, you have some concerns about having a 3 percent increase in the overall budget. We funded developmental disability service providers at a 4 percent increase, but the actual cost of providing those services, according to the Department oner rate study--

SCHEER: One minute.

BOLZ: --was actually 6.6 percent increase. So we are underfunding the services for that vulnerable population. Similarly, and maybe more concernedly, we underfunded the behavioral health rates according to their study done by the Division of Behavioral Health which found that we had a great variance in the amount that we are funding those services, and the average was actually 18.1 percent. We funded it closer to 4. Both of those numbers are a little above 3, but if we're talking about protecting vulnerable populations, that's some of the decisions that we had to make that were a little above that 3 percent. I also want to add that we have to fund things like healthcare, health insurance, and salaries. The health insurance ranged from 3 to 5 percent. So the fact that we have an average budget at 3 when we have a lot of those cost drivers, particularly things like healthcare that can be up to 5 percent, but we still managed a 3 percent average, I think it's pretty impressive.

SCHEER: Time, Senator.

BOLZ: Thank you, Mr. President.

SCHEER: Thank you, Senator Bolz and Senator Ben Hansen. Mr. Clerk.

CLERK: Mr. President, two items. A new A bill, LB470A by Senator La Grone. (Read LB470A by title for the first time.) Senator Kolowski offers LR140. It's a study resolution.

And Mr. President, Senator Erdman will move to recess the body until 5:30 p.m.

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

Floor Debate  
May 15, 2019

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SCHEER: Thank you, Mr. Clerk. Colleagues, just a reminder. We are breaking for 45 minutes. We will reconvene at 5:30 and continue where we're at. Those that are in the queue, the queue will be held over the recess so you do not need to do anything and you don't have to come back and repop. So with that, you've heard the motion. All those in favor say aye. All those opposed. We are in recess.

RECESS

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

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

WILLIAMS: Thank you. Do you have any items for the record?

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

WILLIAMS: Thank you, Mr. Clerk. We're returning to the queue in discussion. Senator Halloran, you're recognized.

HALLORAN: Thank you, Mr. President, and colleagues. Would Senator Bolz yield to a question, please.

WILLIAMS: Senator Bolz, would you yield?

BOLZ: Sure, I'll yield.

HALLORAN: Thank you, Senator Bolz. Senator, for the record, can you give this Legislature assurance that this study will not be contracted to or commissioned to any nonprofit associated with any current senator in this Legislature?

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

Floor Debate  
May 15, 2019

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BOLZ: I guess the only way I know how to answer that is that it will be appropriately contracted to-- through the Department of Health and Human Services rules and procedures. So, if there's somebody on this floor who could do that in a competitive way, I suppose that's possible. Certainly, my nonprofit couldn't. I don't know if anybody else on this floor has that expertise.

HALLORAN: So there is a possibility?

BOLZ: I don't believe so. The contracted entity really should be a university or a entity like Optimist, which is the contract that we typically use for things like this which we used for the developmental disability rate study. I don't want to overstep my bounds here, but don't think anyone on this floor works for an entity that would have the credentials necessary to fill this out. Plus there's-- there are contracting rules, regulations, and procedures that the Department of Health and Human Services has to use.

HALLORAN: Okay. Thank you very much, Senator. I yield my time.

WILLIAMS: Thank you, Senator Halloran. Senator Matt Hansen, you're recognized.

M. HANSEN: Thank you, Mr. President. I rise in support of the budget bill, LB294 and the Bolz amendment, AM1746, and I'm against Senator Clements' FA79. I want to talk a little bit about process, though, because I think FA79 is maybe, your know, a fair amendment for Senator Clements to make and we can decide whether or not this particular expenditure is worth it. We can decide whether or not this first particular amount of study and investigation oversight is worth it. I personally think it is. I personally think this is a worthy goal especially as we of a body has talked about some of these issues that the study would touch. But I want to go, take a step back about process. Before our dinner break, one of the critiques was that this bill better-- was better served if the underlying LB181 was better served in another committee. And that might very well be true. We see that all the time in this body where there are multiple bills that could go to multiple committees. But the fact of the matter of we have an Executive Board who serves as our Reference Board who saw fit to send it to Appropriations. And if we're coming into the stage saying a bill that was introduced referenced to Appropriations had a hearing in Appropriations, was voted on by Appropriations, actually wasn't appropriately in

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

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Appropriations, and there's some sort of dust and cloud about that, that just is the part doesn't make any sense to me. I think it's fair to talk about referencing. I know that's something we've talked about as Rules Committee and Exec Board has talked about things in the future. But to say all of a sudden we can't move forward with something, or one of the reasons we shouldn't move forward with something, is way back when in the first ten days of January we should have referenced this bill that was introduced in day two or day three to a different committee, and therefore day 78, or whatever we're at now, we can't move forward. We've missed our shot. It seems to be overstepping what we're trying to accomplish there. You know, this is fundamentally an issue like many things in our budget that had a public hearing, that was introduced as a bill. A bill with a statement of intent that said what it was going to do. We had an opportunity for the public and the executive branch to come in and share their perspectives on this bill. The Appropriations Committee saw fit to move it forward. As has been explained many times, it's my understanding that AM1746 is a correcting amendment and is representing things that should have been in the budget bill originally including this provision. You can decide if you don't like it or don't like it on the policy issues. You can decide if you don't like the money or want to save the money or you'd rather use the money somewhere else. I think those are all fair decisions to use and to say, but to say that there's some sort of policy argument as to why a bill referenced to Appropriations can't be move forward by the Appropriations Committee kind of throws a wrench into our whole legislative process. The point of which that to object was after the initial referencing report and we have multiple provisions, both in terms of motions and in kind of informal procedures with the Reference Committee, with the Executive Board, in order to correct issues like that. And that would have been the time that had you had some-- just absolutely 100 percent had to go to HHS and there was no way that this appropriation should have gone to Appropriations, that would have been a valid time to raise those concerns. Going down that route, if that's something we really want to hang our hat on and say no, no, this is actually a different committee subject matter, we can't-- we can't exec on it, we can't do anything with it, even after we've had the reference, the public hearing and the committee has taken action, that's something that's going to creep out into all sorts of other decisions. I mean, just thinking just this year, you know, we've already seen in some of the bills the interconnection between Revenue and Education. Are we all of a sudden going to be saying, hey, we can't move forward with this Education bill because it's actually a Revenue bill. And I know I didn't object in January, but I'm

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

objecting now and that's my rationale for not addressing policy when it's very clear a policy that relied on both substances in this case.

WILLIAMS: One minute.

M. HANSEN: I just want everybody to kind of think on that. You know, this is a very transparent, straightforward process that we've used for years. If we want to update that process, we would change that process in the future, that's fine, but all of sudden say on day 78, there's this issue we shouldn't move forward with, because way back in day two we should have made a different decision, just doesn't track for me. You know, vote on the amendment on its merits. Vote on the amendment whether or not you agree or disagree with the policy. I would encourage you to support the Bolz amendment, as is, as good policy, but I think that's what we should be making our decisions on. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Matt Hansen. Senator Cavanaugh, you're recognized.

CAVANAUGH: Thank you, Mr. President. I wanted to continue the conversation about the importance of this amendment and echo Senator Hansen's sentiments about that this was referenced to the Appropriations Committee. And while we might not agree with all of the decisions of referencing, it is the process that we abide by in this body and need to be respectful of that. I wonder if Senator Clements-- I'm not sure if he's on the floor --if he would be willing to yield to a question. Senator Clements.

WILLIAMS: Senator Clements, would you yield?

CLEMENTS: Yes.

CAVANAUGH: Thank you, Senator Clements. So I was-- I borrowed from Senator Howard's desk her lovely tabbed copy of AM1329 to LB294 and I wondered why this was the piece of the healthcare, DHHS, that you had an issue with? She does have these multiple tabs where similar things are referenced, and really prescribing what the department does, just like this one does. Is there a reason that those didn't catch your ire?

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

CLEMENTS: This one did come out separately and when we had the hearing, I did know that Health and Human Services testified in opposition, and I agreed with them on this particular issue. I'm not a Health and Human Services expert so this one stood out more and decided to-- tried to work on this one by itself.

CAVANAUGH: So the end of this Section 6 that you have to be struck, the very end of it says, such funds shall be used to research democratic trends, project current and future service needs and provide recommendations for continued statewide access to long-term care services, including nursing facility care for Medicaid recipients. So, I think that kind of most distinctly explains what this does. It's line 6 through 9 on page 5 of the Bolz amendment. And I am just wondering what particularly about that was the department in opposition to?

CLEMENTS: Well, their statement was, they were already able to do a study, they do a study. Senator Bolz has mentioned that she feels like their study is not as complete as this one. I wasn't as aware, but they thought the amendment was unnecessary and it was placing additional administrative burden on the department.

CAVANAUGH: But this would potentially replace that study. So they wouldn't-- it would be doing just a more comprehensive study, not doing two studies.

CLEMENTS: No, I think this would be in addition. I believe they already-- you'd have to double-check with them, but I think they do the Long Term Redesign Study separately.

CAVANAUGH: Okay. Thank you. Senator Bolz, maybe, I don't know if you could speak to that.

WILLIAMS: Senator Bolz, would you yield?

BOLZ: I'd be happy to yield.

CAVANAUGH: So would this study replace the study that they currently do or would it be an addition?

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

BOLZ: It would be an addition. I see it as very complementary. I would be happy to make copies and share on the floor the Medicare Long-Term Care Redesign Study.

WILLIAMS: One minute.

BOLZ: It's not reading for everyone, but it is a broad comprehensive plan that addresses home community-based services, needs assessments, the no wrong door strategy, administrative efficiencies. It's maybe more of 100,000 foot view versus digging into the specific services that we need for nursing facilities and our significant aging population. So they are quite different.

CAVANAUGH: And do you know how that study is funded, the one that they currently do?

BOLZ: Oh, that's a great question. My understanding is that it is funded through the Department of Health and Human Services operations budget which is matched 50/50 with Medicaid funds. I can cross-check that to be certain, but that's my current understanding.

CAVANAUGH: So this would be an opportunity to do a deeper dive into that work and continue funding at the same way, assumedly, with the 50/50?

BOLZ: This study would be actually cash funded so it would be funded through the fines and penalties that are paid [INAUDIBLE]--

WILLIAMS: Time, Senator.

CAVANAUGH: Thank you.

WILLIAMS: Thank you, Senator Cavanaugh, Senator Clements, and Senator Bolz. Senator Walz, you're recognized.

WALZ: Thank you, Mr. President. I stand in opposition of FA79 and support AM1746 and LB294. As I was listening to the debate, Senator Hansen, Ben Hansen brought up a good point about taxpayers and making sure that we're taking care of our constituents money. And one thing



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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

that continually runs through my mind is the fact that there are so many senior citizens who have paid taxes for years and years and years who deserve to live out the remainder of their lives in a safe and comfortable environment free from abuse and neglect and, certainly, should be able to live out the rest of their lives in their own community near their families. Currently, long-term care facilities are operating under the fee for service model where they are reimbursed a portion of their expenses for the services that they are providing. The department would like to move these facilities under managed-care program. However, we have heard that many, many providers under the Heritage Health-- under Heritage Health are experiencing problems with being reimbursed for the services that they provide. In fact, there are cases where it takes months and months, sometimes even years, to receive a payment that they are due. And I know I gave you guys this example before when I stood up and talked about LB468, but I'm just going to go over that again. If an individual, let's say is dual eligible and living in one of the care facilities, meaning they both have Medicare and Medicaid, and a service that they are provided cost a hundred dollars, Medicare would pick up the initial 80 percent and Medicaid would then reimburse the remaining \$20. But we are often seeing that there's an incorrect zero dollar payment to them and that is a big problem. Some of the reasons that they are rejected claims, a variety of different reasons, but one of the reasons is, that we've heard of, was a wrong color form. And this may not seem like a lot of money, but \$20, let's say, times 40 residents is equal to \$800. And that's about the salaries of two staff who would be working at that nursing facility. Before we take a step forward and introduce new population into the managed care system, we need to take time and study the situation and carefully consider the impact that it would have on our seniors and those living in long-care nursing facilities. If these facilities were to shut down, people would be forced to move away from their communities and their families, those people who have already paid their dues and paid taxes for many years. Thank you, Mr. President.

FOLEY: Thank you, Senator Walz. Senator Morfeld.

MORFELD: Thank you, Mr. President. Colleagues, I rise in opposition to the floor amendment and in support of the underlying budget bill. I just want to make a few different comments based on some other comments that were made earlier. First, we are prioritizing property tax relief. In fact, we've increased the property tax relief fund by 23 percent over the biennium to \$550 million, nearly \$550 million, a few million dollar less. So I think that's a pretty significant

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

Floor Debate  
May 15, 2019

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investment in property tax relief. Particularly given that the amount of revenue that we bring in as a state other than federal funds is about \$4.5 billion. And I'm not great at math as a political science major but that's a little bit under-- or a little bit over 10 percent of our entire revenue that we are putting to property tax relief. Now, don't even get me started on the fact that we're doing that and really nobody even knows about it because most people don't know that they're getting the property tax relief in the first place because it's on line six or seven of their property tax receipt. So, to say that we are not prioritizing property tax relief is completely false. We are prioritizing property tax relief but what some people fail to acknowledge is that there's other priorities in the state. Senator Ben Hansen noted that some people in the state are not able to spend the way that the state spends. Well, you're right. It's because some people, like Senator Ben Hansen and other folks, have opposed things or not helped Medicaid expansion being implemented. So, yeah, there's a bunch of families that can't make decisions or choices that they would otherwise be able to make because we haven't enacted common-sense policy to make it so that some families can have the same amount of healthcare, or affordable or accessible healthcare at the very least, so that they can make decisions, so that they can have flexibility, so they can increase their budget by 3 or 4 percent each year in their family. But that being said, if you don't think that this is a responsible budget, and you don't think it's a responsible budget because we're spending too much and the 3 percent increase is too much, then you clearly don't also think that the Governor's budget was responsible either because he had an average 3.1 percent increase and this budget is an average 3.0 percent increase. So this is actually a more responsible budget in terms of spending and keeping spending low than the Governor's original budget. So I just think that it's disingenuous to say that, number one, we're not cutting enough, we're spending too much, we're barely being able to cover the priorities that we already have and meanwhile we're spending 10 percent of our revenue, a little bit over, on property tax relief. And despite that fact, people still come and say, well, we're not prioritizing property tax relief. Well, how so? Well, we're not giving it all to a certain group of people. That's what they mean. Because unless they don't pay any property tax, or much less than what they're currently paying, they're never going to be happy. I mean, we could defund everything else in the state and probably still not make everybody happy when it comes to property tax relief and we'd still be having this debate. It's a race to the bottom. There's no clear-- there's no clear metric, there's no clear bars in terms of how far we have to go. If you have more assets, you have to pay more taxes. That's how it works with the people that I represent and that's how it should work with

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

Floor Debate  
May 15, 2019

---

everybody else. Now, if we want to provide more property tax relief, then we have other priorities that we also have to fund. So, let's increase some revenue somewhere because the other priorities such as healthcare, such as long-term care for our seniors, those are the types of things, and not only that, public education, K-12, higher education, those are things that bring people back to the state and keep people in the state. And for as many people that are leaving the state because of high taxes, I tell you there's a lot of other people coming back. My grandfather, born and raised here, he came back recently and it wasn't because of taxes or they were too low or they're too high, it was because he had family here. The quality of life was good here. Cost of living was actually pretty low as compared to a lot of other states that he lived in. Also, I have never heard, and I've heard the Governor say this a few times, I have never heard from one of my constituents, half of which are students, wow, you know what, man, I'm leaving the state because of these high taxes and that's half our battle is keeping young people here so that, number one, we have a strong tax base, and number two, so that we can fulfill some of the work force needs that we have to fulfill to keep people here in the first place. I know just as many seniors have left the state because we have horrible-- as compared to some states --we have horrible options for seniors in terms of long-term care. And when those people leave the state, they also take assets with them and some family.

FOLEY: That's time, Senator.

MORFELD: Thank you, Mr. President.

FOLEY: Thank you, Senator Morfeld. Senator Vargas.

VARGAS: Thank you very much, President. So, I do want to thank Senator Morfeld, that-- it's nice --I like living as much, as we can, in fact. It's important because, you know, the hard part about-- I know, Senator Linehan is like, yeah, I really want that all the time --and I'm talking about the Appropriations Committee. So, in this instance when we're dealing in fact, I want to make sure that things are on the record. Because the hard part of that is, we really can say whatever we want and we are referencing things, but I want to reference what we're really looking at in this report. And if you haven't looked at the budget book, I encourage you to take a look. I do want to call out what Senator Morfeld said about the General Fund budget growth that

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

Floor Debate  
May 15, 2019

---

if you disagree with the Appropriations General Fund's appropriation, what we put out, it is lower than the Governor's budget growth for the General Funds at 3 percent. So they-- he provides his recommendations for what we should cut and we have our recommendations. We got basically the same number, actually slowed down growth more. If you historically are looking at how we are spending over the last 20 years, this is very important because I am proud of this. We continue to provide relief through the budget process and the property tax relief fund and we have done that. At the same time, if you look at the last 20 years dating back to 1999 to now, and you look at the average percent change in growth of the General Fund, or the budget that we put out, this Appropriations Committee has had the slowest amount-- sort of smallest amount of growth of our General Fund budget in terms of spending and there have been recessions, there has been economic activity and dips, and upward trends over the last 20 years, but we're looking in 2001 and 2002, 6 percent growth. 2000-2001 5 percent-- 5.8 percent growth. 2005-2006, 7.8 percent growth. 2006-2007, 7 percent growth. And it keeps going on in a very upward trend, but then when you look at what we enacted in 2017-18, negative 0.3 percent growth. The next year 1.3 percent growth and then for this year, starting to then build back up on those cuts which is not-- again it is a percent growth on those cuts, we're looking at on overall 3 percent growth. I want to make that very clear that what we have been doing and what we put out is in reflection to all the previous Legislatures has actually been slowing down growth while we have been simultaneously continuing to then support recommendations and even putting more in sometimes to the property tax relief fund. That's the previous-- we're doing better than previous Legislatures have. I'm not saying we've solved the problem, but if this is-- if you're looking at an either/or that our budget is either not doing what we're supposed to for property tax relief or it is, I'd like you to really think about to what extent we have been doing, which is not our only responsibility. Our responsibility is to make sure we are making reason judgment on how we grow, prioritize agency operations to make sure we're meeting the needs of Nebraskans. We do not say yes to everything. I can tell you in our committee, there's a lot of instances where we're saying no. I can't tell you the number of times. I'm looking at Senator Wishart because people will come and they'll say, we need new-- we need a new car. Our car is 20-years old and we'll say, we need you to actually work with that because we can't add more funding for that.

FOLEY: One minute.

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

VARGAS: We run into a lot-- we actually cut our own travel for now we have been doing this for years, where we used to have funding for travel for the Legislature members to then go into professional development. That no longer is in our budget. We've removed those things and we continue to do that. What we're really left with and many people have said this, we're left with a lot of health insurance benefits, making sure we're keeping up with inflation, right sizing things like provider rates which we have cut in the past. And I think that's more to then get ahead of the data that we're seeing in terms of the population that is both aging and has a higher need. Higher poverty. Less likely than have a job that actually supplies their ability to then not be in poverty. This is trying to do our best. And so, I just want to put that on the record because if anybody is saying we're not doing enough, we are being overly spendthrift and you look at that very binary as you're either doing it or not, that's just-- it's not true.

FOLEY: Time, Senator.

VARGAS: Thank you.

FOLEY: Thank you, Senator Vargas. Senator Howard.

HOWARD: Thank you, Mr. President. Good evening, colleagues. I wanted to bring us back to the long-term care conversation that we were having previously and really focus in on the specifics of what AM1746 is wanting to consider. But before I do that, unbidden on Monday, I actually got an e-mail from a constituent, Isaac Smith, who is the executive director at Azria Health in midtown, Omaha, and he said, greetings from Azria Health Midtown. It was an honor to have you visit our facility in the summer of 2018. I also a few years ago got to call bingo out at Azria Health and had a really nice time there. He said if the state of Nebraska keeps cutting the Medicaid rate for long-term care patients, the most vulnerable population of our state will continue to be the worst victims of our state's inconsideration. My facility serves over 30 Medicaid residents every day and I can assure you they need more care than ever because they are more clinically complex than ever. As reimbursement rates continue to decrease, it's becoming more difficult to provide competent health care practices and material. Recent legislative decisions have been crippling for those of us who give our lives to serve others needs. This has contributed in large to receiverships and closures of dozens of facilities over the past

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

Floor Debate  
May 15, 2019

---

few years and this trend will continue if the state Legislature does not change, leading to hundreds of good, honorable people being further dislocated from families, proper healthcare, and shelter. Furthermore consider the thousands of employees who serve this population whom will no longer have an avenue to serve others nor provide for their families. Thank you for your time and attention to this correspondence. So I think more than anything, I want Isaac to see that we are considering the challenges within our long-term care space, that we are making sure that our provider rates are appropriate. And in regards to AM1746, I was hoping Senator Clements would yield to a question.

FOLEY: Senator Clements, would you yield, please?

CLEMENTS: Yes.

HOWARD: Senator Clements, you had mentioned that your understanding was that the department had already done a study of long-term care services. Is that your understanding?

CLEMENTS: Yes.

HOWARD: So, I want to really clarify-- and you're thinking of the long-term services and supports redesign, is that what you're thinking of?

CLEMENTS: Yes.

HOWARD: Okay. So just to be really clear, that study was released in August of 2017 and the department has done nothing on it since then. Nothing. They put out another paper in December of 2018 that basically said, hey, this is what Mercer said and this is what we're going to do but we haven't done anything yet and we don't intend to. But the other piece of it, and I'm sure you read the study, it's like 34 pages-- well, actually I think it might be one of the 86ers. So when you read the study, did you feel as though it was catered and tailored to long-term care specifically?

CLEMENTS: Let's say, I did not read the study. I understood that there was that study and I understood that it was-- I didn't know whether it had been implemented. That's news to me.

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

HOWARD: So, I did read the study, but maybe that's because it sits in my wheelhouse a little bit more. And the study that was released in 2017 was actually really focused on the DD population and home and community-based services and long-term services and supports as it relates to the developmental disability's population in the state. When we think about the study that Senator Bolz is proposing, it is exclusively around long-term care, which is a different population. It's really focused on elderly individuals. We don't actually have another avenue for it and so these studies are dissimilar, not just in their focus which is on payment structures, but they're also dissimilar in the population that they're looking at.

FOLEY: One minute.

HOWARD: And so, I think as a policymaker, I think we want to know what is going on in our long-term care space. And I don't have further questions for you, Senator Clements, thank you. I think we want to know what is going on in the long-term care space because we don't actually have very much information to work off of as policymakers, but for, we get e-mails, but for, we hear about long-term care facilities going into receivership. I was loath to remove Senator Walz's evaluation from LB468, but I understood that there was a legitimate financial concern there. And so, AM1746 really gives us the opportunity to restore that evaluation and make sure that we as policymakers fully understand what is going on in our long-term care space and what is happening to that very, very vulnerable population. So I would oppose FA79 and I would urge the adoption of AM1746. Thank you, Mr. President.

FOLEY: Thank you, Senator Howard. Senator Wishart.

WISHART: Thank you, Mr. President. I wanted to touch on, just kind of setting the record about how we work in Appropriations Committee. So I have served on this committee now three years and it's a whirlwind. Before that I was a staff member and I represented as a staff member, senators who served on Appropriations and Natural Resources Committee. So I thought committees worked one way and then you get into Appropriations and recognize that it's a total different dance. And there have been some statements about the fact that we did not prioritize this year in terms of our budget process and I want to be very clear, we spent many days talking about what our priorities are. In fact, we had one day where we specifically went around the

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

Floor Debate  
May 15, 2019

---

table and our chairman asked us what we wanted to prioritize out of this budget and what we, a lot of us agreed on, were provider rate increases, flood funding for the devastated communities, prison reform in terms of problem solving courts and staff salaries, and K-12 education and higher education, as well as we-- there were several of us who talked about the importance of funding our Secretary of State's election needs. So I did want to clarify that we spend a lot of time as Appropriation members talking about what our priorities are, and just because they're not your priorities doesn't mean that they haven't been discussed. I did want to say as well, with Appropriations, a lot of times the way it works, and this is good for all the members here to know, because if you have something that you really care about in your district, it's good to get to us so we have enough time to prepare because when you show up in committee, you better be prepared, you better have done your homework because things move fast. We don't have the luxury of taking a ton of time discussing every issue to eternity. The goal of the Appropriations Committee members is, every day you go home and you prepare and do your homework so that when you show up, we can jump-- the next day, we can jump right in on discussing and voting on agency issues. Thank you.

FOLEY: Thank you, Senator Wishart. Senator Linehan.

LINEHAN: Thank you, Mr. President. I appreciate all the work the Appropriations Committee has done and I've flipped through the book back and forth and looked at last year's book and I can see that, you know, they have difficult choices. And knowing something about serving in government for a number of years, rarely does somebody come knocking on your door-- I'm sure this is true with Appropriations Committee where they're not looking for funding. And I doubt anybody shows up there without a need that is important. So I do have some understanding of what they do and I appreciate their work. I'm not going to actually talk about the Appropriations budget but I just want to stand up for a second because it is-- a big part of the Appropriations budget is state aid to education. It's a large part. I think Chairman Stinner has mentioned a couple of times that it got the largest increase in our budget. And that, I think is as it should be. We are obligated by the constitution to provide education-- free equitable education for every child from five to 18-years old. So it's not a surprise nor should we-- we should be very proud of that. Our problem is-- or what I feel very much is a concern and I don't think and this maybe is on me, we have not talked about it enough, is how that aid is distributed, and whether it is fair to every child



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

Floor Debate  
May 15, 2019

---

in the state of Nebraska. Some of my inspiration getting up and talking about this was Senator Wayne yesterday when he made the point, how is it that if he has a student in his district that's going to OPS, the state feels that that student should get \$6,000 but if they opt into Bellevue or Westside or Millard, all of a sudden the child gets \$10,000 from the state. I think that's a question we all really have to think about. We're not talking about-- we're talking about the same child. We're talking about in the same city. In the same metro area. So I think it's something we have to talk about. I also think we have to talk about if our formula just needs a--- and we've tried and I'm still looking for people that have better suggestions, but we have a formula where South Sioux City, great community, but somehow we see in South Sioux City that state funding should equal almost 70 percent of their budget. So every child in that school district gets 70 percent of their funding from the state. You can go down the road a little bit to Clarkson, however, and in Clarkson, Nebraska, we only pick up 16 percent of that child's funding. These differences are very dramatic, folks. And I don't think-- I'm sure that when LB1059, TEEOSA, was originally passed, there was no intention of that Legislature that one child would be getting 80-- or 70, 80 percent of their funding from the state and the next child in the next school district over would be getting 15 percent. I can't believe that was ever the intent of TEEOSA. Let's go to Stanton community schools. They get state aid of 4.4 out of TEEOSA-- 4.45 percent. That's their funding from TEEOSA. We can go to Lakeview. These two schools set side by side, sorry Senator Moser, but they're just such a good example. Columbus state aid is 43 percent. Next door at Lakeview, and I mean we are talking about school districts that abut each other, it's 14 percent. So I think as formula that people are defending-- I've actually not heard anybody in the Legislature defend it, but people outside the Legislature are defending a formula that provides 80 percent of the funding to some students and 10 to 12 percent to others is just not fair. And I should have brought the letter up with up me. I didn't. I received a letter from a gentleman in Holdrege, Nebraska, and he said I could share the story. Twin daughters who graduated from Holdrege, obviously bright students, they're both in exceptional colleges, but they did not have the benefit of advanced placement classes. They did not have the benefit of all the stretch things that we have in our bigger schools. And these smaller schools are never going to be able to do that for their students unless we change this formula.

FOLEY: It's time.

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Rough Draft

Floor Debate  
May 15, 2019

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LINEHAN: Thank you very much.

FOLEY: Thank you, Senator Linehan. Senator Groene.

GROENE: Thank you, Mr. President. As Senator Linehan said, this is a big budget. It's got an awful lot of stuff in there. And 99, or 98 percent of it I agree with. You have to fund government. You have to fund the schools, you have to fund a lot of other entities that we have in this state. But somehow or another we're going to have to slow it down. We are very high taxed in income and sales and I know the old story about grow the community, grow the state and the tax base grows. I haven't seen it. I've been waiting a long time. I've been a life-long-- well, I lived out of the state ten years for occupational reasons. But I haven't seen it. I just see a lot of extravagance. Call it a lifestyle. We offer things in Nebraska that other states do not. We have very low tuition rates in all of our higher education, public entities. We are 17th in the nation on funding for public schools per student. We're, like I said, third in the nation per capita funding for the University of Nebraska. And if you look at what we pay for in Medicaid, we have, I think, last number I'd heard, 19 additional things we pay for that we don't have to, the feds said they're not listed as necessary. It all adds up. I think Senator Hansen said it. Ben Hansen said one penny. It's that one penny, the one pennies add up when you only have 1.9 million people. And maybe 800,000 of them are net taxpayers. That one penny starts burdening those folks because they're not asking for all the services and the consideration of them should be taken, they're called the taxpayer. And we-- if what the state is already taxing is high because we rate high in income and sales tax, but then when you-- pushed off to the property taxpayers, is absolutely alarming because there's a huge amount of taxes, more taxes raised there than any of the other ones. As we know 44 percent of our total taxation comes from property taxes. It just seems to be a total disconnect. People come down here and want to help others with other people's money and they just have a-- totally forgot that the people you're taking the money from might need it themselves for their basic needs, for their mortgage payment, for their children's education. But we get caught up on this thing about who we're spending it on instead of who is paying it. And that needs to stop. You know, I'm going to support the budget at the end of the day, but I'll continue to say I do not like that we are starting to fund things in the budget and going directly to the appropriators and not through the committees. And I'm going to-- now Senator Wayne, perk up. I'm not going to try to take your bridge out of here, study, but come on folks, that Missouri

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Floor Debate  
May 15, 2019

---

bridge study should have gone to Transportation Committee. We all know that. It should have come from there and it should have been gone directly to the Roads Department to do it, to be directed to do it. In Revenue Committee we had a couple of those bills where they were trying to dictate something to the Roads Department with their taxation. That didn't go directly to Appropriations. But more power to Senator Wayne for getting it done and getting his project done.

SCHEER: One minute.

GROENE: Is Senator Erdman-- he can have the rest of the time. This is the last time I'll stand on this because I want to go home tonight. But we need to start looking at every penny. Thank you.

SCHEER: Senator Erdman, 45 seconds.

ERDMAN: Thank you, Mr. Speaker. You know, I listened to the comments about funding the long-term care. I got a suggestion for you. Have an amendment in to take the \$7.3 million that we gave the university for raises and utility increases that they don't need, let's take that 7.3, move on my amendment-- take that 7.3 million that the university is to get and give it to the most vulnerable, as Senator Howard said, help the most vulnerable to do something that really makes a difference and we can do that 7.3 to them and it won't mean squat to the university in the budget they have, 600 and some million, and we can make a difference. But that amendment is still on file and we got to get to that one, but it makes sense to me that's what we do.

SCHEER: Time, Senator.

ERDMAN: Thank you.

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

BOLZ: Thank you, Mr. President. I wanted to continue on the theme that has been brought up this evening, particularly continuing the conversation I was having with Senator Ben Hansen and some of the concerns about whether or not we've made difficult choices. And I wanted to, again,

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Rough Draft

Floor Debate  
May 15, 2019

---

talk about some of the cuts that we have made over time in our budget. And some of those that I think are worth bringing up because there's some question about whether or not we're able to make those tough decisions. In the last biennial budget cycle we cut a number of programs, including the Riparian Vegetation Aid Program, which my colleague to my right, Senator Hughes was supportive of. We were no longer able to fund that as well as the Master Teacher Program which was a bill that I brought and we were no longer able to fund it. So Dan and I both had sacrifices in the last budget cycle. We also cut during that time about \$5 million from the Water Sustainability Fund and that fund is not a-- it's not a fund that directly impacts District 29 but that was a really difficult cut to make. It wasn't something that we did lightly. And, in fact, in this budget we replaced those dollars. So when we're talking about budget growth, we're also talking about making some things right that have been difficult in the past. Another area in the same vein is that we restored some cuts to different aid programs under the Department of Education and Senator Linehan was reflecting on how education is one of the things that we actually must do or must fund. And so, I think some of those programs, including funding for high-ability learners, early education grants, and others were important to replace, were important to put back for the quality of education and services in our state. So colleagues, I just want to talk a little bit of history in terms of things that we have made difficult decisions about in the past that remain cuts to things that people care about, as well as things that we have cut in the past that we have tried to make right because they are priorities to people in this body. The Water Sustainability Fund, I think is a good example of that, that is so important to our rural colleagues. I also thought it was-- it would be helpful for the educational moment or for the context, to talk about a few other things that we fund through cash funds. And an example of something that we fund through a cash fund is we expanded service centers for the Department of Motor Vehicles. And again, these are cash funds just like the cash fund that we're using from the Nursing Facility Penalty Cash Fund for the study. We use cash funds for the Department of Motor Vehicles that come from the people who use the motor vehicle services to increase service centers, including installing security cameras, soundproofing conference rooms, and providing testing spaces. So there are strategic things that we do through cash funds that add value to our state and they are somewhat different than things that are general funded priorities. Another example is the Grain Sorghum Board, for example, uses their cash funds for marketing. And if we talked about marketing in the same way that we talked about the nursing facility study, is this necessary, how do they contract that work out, who does it and in what manner. I think we would

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

see that there are plenty of other examples where cash funded agencies do similar kinds of things. Another example is the Brand Committee. The Brand Committee is trying to go--

SCHEER: One minute.

HOWARD: --to a paperless inspection system and we're supporting that with cash funds. A final example is that we're actually using revolving funds from our state agencies to do a parking facility study to help make our Democratic system work better by making sure that people can access this Capitol Building. So, colleagues, my two main points here are when we look at the budget, we have to look at the history of things that we've cut and a few things that we're trying to make right. And I wanted to use this time on the mike to talk about the precedent of cash fund uses which are varied and are a little bit different than General Fund uses but include everything from security cameras to paperless inspection programs for the Brand Committee. Thank you, Mr. President.

SCHEER: Thank you, Senator Bolz. And by the way, Senator Bolz, that was your third time at the mike. Waiting in the queue: Senator Crawford, Clements, Hilgers and others. Senator Crawford, you're recognized.

CRAWFORD: Thank you, Mr. President. Good evening, colleagues. I rise in opposition to FA79 and in support of AM1746 and LB294. I've already spoken before about my support for AM1746 and I do think that making sure that we're-- we have a business plan for our long-term care is critical and this provides an opportunity to do that. I think that it's important that we have on the record where this money comes from for this study because as some people are maybe concerned about where the money comes from, I think it's important to have that on the record that this money is coming from fines, fees, and from federal government. So I wondered if Senator Bolz would yield to a question.

SCHEER: Senator Bolz, would you please yield?

BOLZ: Sure, I'd be happy to.

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Rough Draft

Floor Debate  
May 15, 2019

---

CRAWFORD: Thank you, Senator Bolz. I just wanted to make sure we clearly had on the record where the money comes from. I'm concerned about FA79 striking this from the budget and I just to be clear where the money comes from for this study in terms of being responsible with our funds in terms of the budget. So I wonder if you would explain a little bit about where the state money comes for this program.

BOLZ: Sure. So, if anybody really wants to dig into it, the Fiscal Office would be happy to show you the State Government Cash and Revolving Fund book which outlines all of our cash funds and their uses. This comes from Fund 22690, which is the Nursing Facility Penalty Cash Fund and the fund is built up by civil penalties assessed against the nursing facility which are found in violation of Medicaid regulations. And again, LB22 passed earlier this session made what we're doing in this amendment appropriate under this cash fund authority.

CRAWFORD: Great. Thank you. So the funds to improve our nursing home facilities have a business plan on how to move forward for long-term care comes from those fines for people who are not following the rules in terms of long-term care. So that's critical for people to understand. This is not something that's coming from the General Fund, this is coming from a cash fund that's based on those fines. But could I also ask Senator Bolz another question? Ask that Senator Bolz would yield to another question?

SCHEER: I'm sorry. Senator Bolz, would you yield again?

BOLZ: Sure.

CRAWFORD: And I wonder if you would clarify for the record where the federal funds come from for this program?

BOLZ: Sure. Contingent upon approval from the centers for Medicare and Medicaid services, there would be matching funds from federal funds and federal guidance states that funds may be used to support activities that protect or improve the quality of care or quality of life for residents. This may include a number of things, assistance for facilities that are closing or

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

Floor Debate  
May 15, 2019

---

decertifying, projects that support councils, development and maintenance of receivership capacity and other quality assurance, performance, improvements, and research initiatives.

CRAWFORD: Right. Thank you. So, colleagues, I think it's very clear that the study that we're talking about, and is one that is using funds that come from fines in our cash fund and is leveraging federal dollars, I think that is very valuable for us to leverage those dollars to have an outside consultant to help conduct this study. It's always valuable to get that perspective. And I know that the department has been concerned about having a business plan and this produces a business plan for long-term care. So I think it's very consistent with their efforts--

SCHEER: One minute.

CRAWFORD: Thank you, Mr. President. --to have a business plan for the department overall. This will really help to fine tune their business plan in terms of how it relates to long-term care. And so, I, again, stand opposed to FA79. I think that it's a valuable part of our budget, it's a part of how we're allocating resources to really help the most vulnerable in our state and also to improve our ability to function efficiently. So that's an important part of our role here, is as we're allocating resources to also think about what helps us improve our efficiency in the future. And this study appears to be an important part of that effort, so it's money well spent. Thank you, Mr. President.

SCHEER: Thank you, Senator Bolz and Senator Crawford. Senator Clements, you're recognized.

CLEMENTS: Thank you, Mr. President. I appreciate all the discussion. I hope we haven't just turned this huge several hundred page document into a discussion of just one little section. And welcome anybody to talk about anything else they want, but I did have conversation with people from the Health and Human Services Department and regarding the comment that nothing was done with a study that they did in 2017, they say that they did implement some electronic visit verification to help cut down on fraud to ensure providers are making visits to homes, and that means when a provider says they're with a patient, they're verifying that they are. Which makes the program more efficient and not wasteful. And they also implemented some active case management of finding out people who are at home, if they needed transportation to doctor

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

appointments, this study identified a need for that and they implemented a program for that. So, maybe not all of the points of the study were implemented, I'm not sure, but it wasn't just put on the shelf and not implemented at all. Back to the main budget, the one thing I kept hoping that we would have would be \$16 million for the military pension, 50 percent tax deduction, and it really never got discussed in our deliberations and we ended up with provider rate increases that were \$39 million above what the Governor recommended. You know, another 7.3 million to the university. The therapeutic foster care service, I mentioned, \$4.5 million. They told us that they're not ready, they're going to do that service, but it's not-- the business plan isn't finished yet. That's money that may or may not really be used over this biennium. And I think there were some other new programs that were not in previous budget. They used up some of the funding that I would have liked to have seen especially for retired military to get this tax deduction that would really help in the Offutt area, in my district especially with retired military people and with businesses looking for employees. I hope that we can maybe see the revenues in the state improve enough that we'll find room for that in the future. With that, I'd yield the rest of my time to Senator Briese.

SCHEER: Thank you, Senator Clements. Senator Briese, one and a half minutes.

BRIESE: Thank you, Mr. President, and thank you, Senator Clements for that. I appreciate that. I just want to talk very briefly about support for education and Senator Linehan approached the subject here a little bit ago and I wanted to follow up on that. My data suggests that we're 13th in the country for student support of higher education, but according to U.S. Census Bureau data we're about 5th or 6th from the bottom in support for K-12 students and I don't think you can justify that disparity. And this isn't intended to be an indictment of higher education spending in Nebraska, but I did want to point that out. And why do we have that disparity? You know why? It's because we can depend on the property taxpayers to take over and support K-12 education in Nebraska. We have the local property taxpayers to bail us out on K-12 funding. Our "overreliance" on property taxes allows us to do this. So when I campaign next time, I'll be able to send out mailers saying I'm a fiscal conservative, I control the growth of spending, I help balance the budget, but if I'm going to be truthful, I'm going to have to put on the bottom of that mailer in fine print, but the property taxpayers got hammered on my watch. So what can I do about that? What can we do about that? What we can do about that is increase our state support



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

Floor Debate  
May 15, 2019

---

of K-12 education in this state and we've got a bill that can help us do that, and that's LB289. So folks, we need to take a hard look at LB289 that can provide significant property tax relief to all your constituents.

SCHEER: That's time, Senator. That's time, Senator.

BRIESE: It needs to be back on the floor. Thank you, Mr. President.

SCHEER: Thank you, Senator Briese. Senator Hilgers.

HILGERS: Thank you, Mr. President. Good evening, colleagues. I rise in support of LB294 and elements of AM1746, in particular, the elements regarding the Attorney General's budget and Secretary of State's budget. I want to say, I appreciate the conversation about the budget today and earlier on Select File. I think it's important for us to have some time to be able to discuss this. I think-- I do want to thank Senator Stinner and the appropriators for their hard work. They have had months of effort that they put into this particular process and I think while you can, I think, commend and appreciate and acknowledge the great work that they have done, you can also acknowledge at the same time that the body-- the rest of the body is at a disadvantage in analyzing that work. Over the last four months and really even before the session started, that the Appropriations Committee has had the opportunity to be able to interview the stakeholders at various agencies to be able to ask the hard questions, to be able to investigate the cash funds, to be able to question and challenge budget. All of that, by the way, is a good thing. That all ought to happen. At the same time, when we're on the floor, we're at a disadvantage and the reality is, we're just simply at a disadvantage to be able to analyze with the appropriate context whether or not those decisions are the same decisions that we would make. Now, certainly we have a great deference in this body to the committee system and I acknowledge that, but I do think that a vote for LB294 is not necessarily a vote to say that I support the budget that I had been on the Appropriations Committee that I would have asked different questions or maybe come to a different conclusion. So I think it's important to say thank you to the Appropriations Committee, Chairman Stinner and the work that they did, but also acknowledge that it is not an ideal or optimal process to get such a complicated document on day 70. Now that's what our rules state, so it's not certainly criticism of anyone in particular, but I do think it's an acknowledge of an

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

imbalance of information that makes this a little bit more difficult. That being said, I'm glad we've had the opportunity to discuss the budget over the last couple of days and I do think from a big picture perspective, a couple of points I just wanted to make, since this might be the only time that I have to be able to discuss the budget. I am of the belief that in order to have long-term, fiscally sound, policies that provide tax relief, real meaningful sustainable tax relief to people, the way to do that is to control spending over time. And I think you can do that without-- I think usually it's sort of we talk about it in a binary choice. Well, the only way you get tax relief is by cutting spending and if cut spending, you cut services, and if you cut services, you hurt people. I think that's usually the logical flow of the argument. And I really reject that. I really reject that. And certainly it's true, just like any budget, if you were to a budget 10 percent tomorrow, that it's very likely that whatever the budget was supporting, whether it was services, or family budget, or a company, they're going to have to make some hard choices that are going to impact their ability to be effective. That's, no doubt, true, but I don't think that you have to have it either or. And I think in the long-term by making smart decisions, disciplined decisions that focus, as Senator Erdman spoke about the other day, on the priorities that we agree upon that we should focus on. If it's the university, well, gosh darn it, fund the university to be the best it can be. If it's our K-12 education system, well, do it. If it's our healthcare, our HHS system, do that. We ultimately have to set priorities and we have to build around those, but I think you can do it over time, you can have the services that you want, you can be able to fit them within budget and give tax relief if you are able to be disciplined overtime and encourage innovation and ingenuity. There's no reason that government couldn't operate in a way that's similar to what businesses do around the country every single day. A small business owner myself, I know what it's like to be able to-- when you're finding out they're trying to do something better for less money. So the idea that we can-- by cutting spending we therefore cut services, I think over the long haul at least, maybe in the short term, but in the long haul I don't accept that and I think it's important for me at least, over the long-term, what I'm looking for is, are we funding our priorities the way that we should, and are we trying to be disciplined and make sure that our spending is not just spending all that we have.

FOLEY: One minute.

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

HILGERS: Thank you Mr. President. So those are a few of the things that I focus on when it comes to this budget. I think, ultimately, we need to ensure that we have more money that we give back to people and doing it responsibly. I appreciate the work that the Appropriations Committee has done. I yield whatever time I have left to Senator Chambers.

FOLEY: Thank you, Senator Hilgers. Senator Chambers, 40 seconds.

CHAMBERS: Long enough to say thank you very much.

FOLEY: Thank you, Senator Chambers. Mr. Clerk, you have a motion at the desk.

CLERK: I do. Senator Stinner would move to invoke cloture pursuant to Rule 7, Section 10.

FOLEY: It's the ruling of the Chair that there has been a full and fair debate accorded to LB294. Senator Stinner, for what purpose do you rise?

STINNER: I would like a call of the house and roll call in reverse order, please.

FOLEY: Thank you, Senator Stinner. There's been a request to place the house under call. The question is, shall the house go under call? Those in favor of placing the house under call vote aye; those opposed vote nay. Members we're voting on call of the house at this point. Record, please.

CLERK: 25 ayes, 5 nays, Mr. President, to place-- excuse me, 33 ayes 4 nays to place the house under call.

FOLEY: The house is under call. All unexcused members please return to the Chamber and check in. The house is under call. All unexcused personnel please leave the floor. The house is under call. Senator Walz, would you check in. Senator Moser, please check in. Members, we're going to have to ask you to check in again, please. We had a technical glitch up here. Please check in again, please. Please check in. Senator Vargas, Senator Crawford, please check in. Senator Walz. Senator Wishart, please check in. Senator Wishart, please check in. Members,

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

please come to order. All unexcused members are now present. The immediate question for the body is whether or not to invoke cloture. A roll call vote in reverse order has been requested. Mr. Clerk.

CLERK: (Roll call vote taken.) 47 ayes, 2 nays on the motion to invoke cloture.

FOLEY: The motion to invoke cloture is successful. Our next vote would be a vote on FA79. Senator Clements requests a roll call vote, regular order. Mr. Clerk.

CLERK: (Roll call vote taken.) 21 ayes, 28 nays, Mr. President, on Senator Clements' amendment.

FOLEY: FA79 is not successful. Our next vote is on AM1746. All those in favor of AM1746 vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 40 ayes, 7 nays, Mr. President, on the adoption of the Appropriations amendment.

FOLEY: AM1746 is adopted. And finally, vote on LB294 advance to E&R engrossing. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

CLERK: 40 ayes, 7 nays, Mr. President, on the advancement of the bill.

FOLEY: LB294 advances. I raise the call. Items for the record, please.

CLERK: Thank you, Mr. President. Series of new A bills. (Read LB311A, LB607A, LB205A, LB733A, and LB323A by title for the first time.) LB311A is by Senator Crawford; Senator Kolterman, LB607A; Senator Kolterman, LB205A; Senator Kolowski, LB733A, and Senator Crawford, LB323A. Enrollment and Review also reports LB300, LB300A and LB675 as correctly engrossed. That's all that I had, Mr. President.

FOLEY: Thank you, Mr. Clerk. We'll now proceed to consideration of LB110. Mr. Clerk.

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

CLERK: Mr. President, LB110 is a bill originally introduced by Senator Wishart. (Read title.) Introduced on January 10, at that time referred to the Judiciary Committee. The bill was advanced to General File. I do have Judiciary Committee amendments pending.

FOLEY: Thank you, Mr. Clerk. Senator Wishart, you're recognized to open on LB110.

WISHART: Thank you, Mr. President. Well, good afternoon, colleagues. This has been a long time coming. I am here today to introduce LB110, a bill that would establish the Medical Cannabis Act and provide for the cultivation, processing, and use of cannabis for medicinal purposes in Nebraska. First, I want to thank all of the families and advocates who have worked tirelessly on this legislation over many years, many of whom are here today still fighting for their loved ones health. I want to thank my legislative staff, Bill Drafters, the Fiscal Office, the Judiciary Committee and their staff for their diligent work on this bill and the accompanying materials. I also want to thank the doctors, pharmacists, law enforcement officers, gun rights advocates, Chambers of Commerce and Industry, and many other people in organizations who have helped me craft what I would consider one of the best public health models in the country. I introduce LB110 on behalf of the countless Nebraskans who have reached out to me in favor of cannabis reform. These are Nebraskans who span the political spectrum, are old and young, rural and urban, all who share a common desire for change because they or family and friends are struggling with a chronic illness and desperately want access to cannabis for medicinal purposes. So it doesn't surprise me when I reviewed a poll results from 2017 that showed over 70 percent of Nebraskans support the legalization of cannabis for medicinal purposes. That was two years ago and since then, Utah, Missouri, and Oklahoma have joined 32 states in legalizing cannabis for medical purposes. In fact, I heard from one of my conservative friends this morning who is a state representative in Alabama that they are passing medicinal cannabis this year. Before we dive into the details of this system established in this bill, with the accompanying committee amendments, I want to outline the history, science, and current environment surrounding cannabis. Cannabis is one of the oldest cultivated plants and has been used by humans medicinally for thousands of years. To date, more than 100 different cannabinoids have been identified in the cannabis plant. Our bodies have what is called an endocannabinoid system. Discovered in the 1990s, we now have decades of scientific purview about the system inside all of us. Our endocannabinoid system plays an integral part in the regulation of pain relief, mood

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

Floor Debate  
May 15, 2019

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management, blood pressure and blood sugar control, appetite, sleep cycles, extinction of traumatic memories, inflammation, neuroprotection. This system controls it all. The cannabis plants and its over 100 cannabinoids has been shown to work hand in hand with our bodies endocannabinoid system. Hence, the medicinal benefits. Outright prohibitions of cannabis began in the early 1900s and it occurred state by state. Nebraska banned cannabis in 1927. Before researching this issue I had always first thought that cannabis prohibition was at the federal level when it first started to become prohibited, it was actually the states that got us into this mess, state by state. So it should be the responsibility of states to get us out of it. At the time of prohibition at least 27 medicines containing cannabis were legally available in the United States. In fact, the legislative counsel at the time for the American Medical Association opposed cannabis prohibition because it would prevent the medicinal use of cannabis. In 1970, with the establishment of the federal Controlled Substance Act, cannabis was placed as a Schedule I drug, which prohibits the abilities of doctors to prescribe it medicinally and makes it incredibly hard to do medical research on it. I would like to point out that cocaine and methamphetamines are Schedule II drugs because they can currently be administered by a doctor for legitimate medical purposes. In 1972, a petition was submitted to the DEA to reschedule cannabis. After 16 years of court battle, the DEA's chief administrative law judge, Francis L. Young, ruled on September 6, 1988, quote, marijuana in its natural form is one of the safest therapeutically active substances known. I just want to clarify that this is Francis L. Young. He was the chief administrative law judge for the DEA at that time and he said, it is one of the most-- the safest therapeutically active substances known. The provisions of the Controlled Substances Act permit and require the transfer of marijuana from Schedule I to Schedule II. It would be unreasonable, arbitrary, and capricious for the DEA to continue to stand between those sufferers and the benefits of this substance. The DEA rejected the judge ruling and to date cannabis remains a Schedule I drug. While Schedule I designation limits our ability to bring an application in front of the FDA for approval, a large and growing body of gold standard, double-blind, placebo-controlled scientific research and clinical trials continue to be done across our country and the world. In January of 2017, the National Academy of Sciences, Engineering and Medicines conducted a rigorous review of more than 10,000 scientific research published since 1999 that details what is known about the health impacts of cannabis and cannabis derived products. Their findings include one of the therapeutic uses of cannabis and cannabinoids is to treat chronic pain in adults. The committee found evidence to support that patients who were treated with cannabis or

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

cannabinoids were more likely to experience a significant reduction in pain symptoms. For adults with Multiple Sclerosis-related muscle spasms, there was substantial evidence that short-term use of certain oral cannabinoids, man-made cannabinoid-based medications that are orally ingested improved their reported symptoms. Furthermore, in adults with chemotherapy-induced nausea and vomiting, there was conclusive evidence that certain oral cannabinoids were effective in preventing and treating those ailments. This report definitely refutes claims that cannabis has no medical value. Colleagues, no one has died from overdosing on cannabis. According to the U.S. Centers for Disease Control and Prevention, there is no listed case of cannabis as a cause of death. Meanwhile, prescription drugs such as opioids have become one of the leading causes of deaths in the United States. Yet the FDA, the very entity complicit in the opioid crisis, the DEA and various other federal organizations have been extremely hostile in allowing progress in the type of medical research on marijuana that the FDA requires by continuing to move the goal post for cannabis research. Over a dozen recent small scale, phase two clinical trials have found support for the medical efficacy of cannabis. But federal obstruction has prevented the type of scale in these trials that would be needed to take cannabis as a prescription drug such as a phase three trial to move forward with the FDA. There have been attempts by scientists to complete phase three trials and bring an application in front of the FDA, but those attempts have been stopped by the DEA. Which is why today a total of 32 states, like the 33 after Alabama leaders have the courage to take action, now allow for comprehensive medicinal cannabis programs and no state that has established medicinal cannabis system has sought to reverse it. The American Academy of HIV Medicine, American Bar Association, American Civil Liberties Union, American Nurses Association, American Public Health Association, the Lymphoma Foundation of America, the National Nurses Society on Addictions, the National MS Society, Epilepsy Foundation, the Episcopal Church, the Presbyterian Church, USA, the United Church of Christ, the United Methodist Church Board and Church and Society and countless other organizations support health practitioner supervise access to medical cannabis. Colleagues, if you have problems with the specifics of this bill, I am willing to work with you to make it better, just as I have worked with the Nebraska families. I've worked with the Nebraska Medical Association, the Paternal Order of Police, State Troopers Association, and the State Chambers of Commerce to find a way to address their concerns while maintaining the integrity and fundamental goal of our system which is to provide access to cannabis for people who are sick. What I cannot accept is an argument that this is too hard or complicated to deal with. We were elected to come here to

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

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study, to work hard to address tough, complicated issues like this, and I won't stop until we have a legal, safe, and humane medical cannabis system in our state. Thank you.

FOLEY: Thank you, Senator Wishart. As the Clerk noted, there are amendments from the Judiciary Committee. Senator Lathrop, you're recognized to open on the committee amendment.

LATHROP: Thank you, Mr. President, and colleagues, good evening. LB110 was heard by the Judiciary Committee on January 25, one of our longest hearings of the session, the bill along with the committee amendment AM1508 each advanced on a 5-1 vote with one member present not voting and another member absent. AM1508 is a white copy amendment that replaces the green copy of LB110. It is a broad measure as it creates a patient healthcare provider relationship, a production and distribution chain, and a regulatory and oversight function relating to medical cannabis. I would like to thank Senator Wishart and her office for the numerous hours spent meeting and working with those having an interest in the bill and developing the compromises necessary to address as many concerns and suggestions as possible. I'd also like to thank Senator DeBoer and her staff who spent a significant amount of time offering suggestions that fine-tuned this amendment. The first change that's noticeable is that the first lines of the amendment, and continue it throughout the measure, is the title. The proposal is now called the Medicinal Cannabis Act as opposed to the Medical Cannabis Act. It will not a major change in terms of policy, numerous references to, like medicinal use are spread throughout the amendment. The allowable amounts of cannabis that a patient can possess was reduced substantially from the original proposal. The amendment limits the allowable amount to 2.5 ounces of plant material and 2,000 milligrams of cannabis product. There is a process for medical necessity waiver and the original provisions to allow for homegrown amounts have been removed. The list of qualifying conditions has been reduced. Provisions for chronic pain have been changed to require that the pain has continued for more than three months and is not managed with other approaches. PTSD, while listed, is to be reviewed by December 2020; anxiety disorders are not included, but subject to review for inclusion in December 2020. Patients can name one caregiver, which may include care facilities, by signing an affidavit designating the caregiver. The affidavit along with the provider certification allows the caregiver to obtain and deliver as well as assist in administering. A waiver of additional designated caregiver is provided. Patients will visit their healthcare provider who will provide a certification



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

Floor Debate  
May 15, 2019

---

for the patient and that the patient has a qualifying condition after completing an exam and medical history. The exam includes the discussion on the risks of cannabis, on a pregnancy, and family history, regarding psychotic disorders. Patients can then complete additional consent and disclosure forms and voluntarily register with the department. If the patient chooses not to register, they or their caregiver may utilize the dispensaries directly. Limitations are added on the number of certifications that can be provided by doctors or others. The period of certification is considered current, is reduced from one year to 90 days. In addition to the limitations, requirements for continuing education for healthcare providers that provide numerous patient certifications, and the establishment of those courses are included in the amendment. Smoking cannabis would be prohibited. Other restrictions including consuming cannabis while in a motor vehicle, and an open container restrictions are included. And while the Medicinal Cannabis Act provides protections for patients, if they have a certification and possess less than the allowable amount, there are no protections either civil or criminal for operating a motor vehicle, boats, or other vehicles while under the influence, as well as negligence, or malpractice due to the use of cannabis. Patients who sell or share cannabis or products would be ineligible for registry program and subject to criminal penalties. Employers may restrict the use of cannabis by their employees, including drug free or zero tolerance policies. Employees discharged for misconduct involving cannabis cannot collect unemployment benefits. Medicaid does not cover cannabis costs for the patient and insurers are not required to cover the cannabis treatments. Turning to the supply chain, AM1608 establishes four entities within the process, producers, processors, dispensaries, and laboratories. Producers and dispensaries are limited to ten per Congressional district. Processors and laboratories are unlimited, but all four entities are approved and registered by the Cannabis Enforcement Department. The department establishes at least three levels of producers based on the size and number of plants, cultivated, security and fees. Fee levels vary by tier. Producers and processors must be at least 60 percent owned by a Nebraska resident and must contract with the laboratory for testing of the product. Producers can also register as a processor. Dispensaries cannot cultivate, harvest, or process cannabis. They must contract with a pharmacist who is available to consult or educate patients at no charge. The pharmacist must complete continuing education courses. AM1608 establishes packaging requirements that include patient information, composition of the cannabis, date, recommended dosage, and include warning materials. The packaging must comply with federal requirements on childproof or elderly, containers must be packaged in a manner that indicates that it has been

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

Floor Debate  
May 15, 2019

---

opened. Dispensaries must also take back unused cannabis. As with producers, processors, and laboratories, applicants for registered dispensaries must be Nebraska residents as well as 60 percent of the dispensary ownership. Producers, processors, dispensaries, and laboratories cannot share office space with, or refer patients to a specific healthcare provider. Laboratories cannot own an interest in the producers, processors, or dispensaries. The laboratories will test for concentration and for the presence of molds, fungus, and other chemicals. Testing results are reported to the producers, processors, or dispensaries in a manner established by the department. Employees of the producers, processors, dispensaries, and laboratories must be at least 21-years-old and must go through a criminal background check at their cost. Turning to the regulation oversight component of AM1608, the measure establishes the Cannabis Enforcement Department and the Medicinal Cannabis Board. The board consists of seven members appointed by the Governor and confirmed by the Legislature. The make of the board includes two doctors, two pharmacists, a member of the law enforcement and one patient or care giver, and a member with experience in substance abuse treatment. At least one member shall be from each congressional district and a majority of the members must be advocates for medicinal cannabis. Members must be a Nebraska resident for at least two years and cannot have an ownership interest in any producer, processor, dispensary, or laboratory. Among the duties of the board are meeting at least quarterly, appointing a director of the Cannabis Enforcement Department and advising the department on policies of the department, rules, regulations, and legislative recommendations. The department office will be located in Lincoln, but may have additional branch offices. Duties of the department include developing and distributing certification forms, developing a voluntary registry for certified patients and caregivers, approving producers, processors, dispensaries, and laboratories, and developing medical education courses, and the warning materials distributed by the dispensaries. Other duties include inspecting the entities in the production and the dispensary chain establishing a list of those who have violated provisions of the act, and collecting fees for credit to the created medicinal cannabis regulation fund. Access to the voluntary registry maintained by the department is limited with specific language that prohibits providing registry information to federal alcohol, tobacco, and firearms.

FOLEY: One minute.

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

LATHROP: And the bill also protects gun owners by prohibiting the state and local agencies from using a patient or care giver's status under the act to deny or revoke their ability to own firearms or ammunition. Annual fees outlined in AM1608 include for producers, 40,000 for those in the tier with the largest number of plants, 5,000 for producers in the lower tiers, 40,000 for processors using the solvent-based extractions, 25,000 for dispensaries, and 15,000 for laboratories. Board members and employees of the department are prohibited from receiving or soliciting gifts from anyone subject to the Medicinal Cannabis Act. I recognize that this explanation of the amendment and changes to the original LB110 is not completely comprehensive. I've tried to highlight the many items that make up the program envisioned by LB110. I believe the work put into this measure--

FOLEY: That's time, Senator.

LATHROP: --has made it stronger. Thank you. And I would encourage your support.

FOLEY: Thank you, Senator Lathrop. (Visitors introduced.) Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senator Crawford would move to amend with AM1865.

FOLEY: Senator Crawford, you're recognized to open on AM1865.

CRAWFORD: Thank you, Mr. President, and good evening, colleagues. Colleagues, AM1865 is an amendment to simply take out edibles as one of the cannabis products that can be a part of this program. I really appreciate all the work that the Judiciary Committee has done and Senator Wishart has done to try to make this program as secure as possible to make sure that only those people who are in medicinal need are getting the cannabis. And one of our key efforts that we should have in a program like this is making sure there are no unintended-- to make sure that we are dealing with possible unintended consequences. And one of the concerns I have is really about edibles, particularly edibles that are in the form of candy, cookies, that could easily be ingested by a juvenile and maybe more attractive to youth. So that's my concern is that-- and I don't think that we would need to have edibles in terms of medicinal use. I do want to clarify on the record, this does not include pills by edibles. We're talking about candy, cookies, other food

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

Floor Debate  
May 15, 2019

---

products that would have the cannabis in that food product. So this amendment again is simply to remove edibles as one of the cannabis products for the sake of making sure that we are getting the cannabis to the people who are most in need and being careful not to have the cannabis get in the hands of youth, juveniles, other people to whom it should not be in their hands. Thank you, Mr. President.

FOLEY: Thank you, Senator Crawford. Debate is now open on LB110 and the pending amendments. Senator Chambers.

CHAMBERS: Thank you, Mr. President. I probably won't get to speak again on this, so I've got to say what's on my mind. First of all, I enthusiastically and without reservation concur with everything that has been said so far. I think Senator Wishart-- I'm always inclined to call her Senator "Wiseheart", so if I do, forgive me, but she demonstrated that today. Factually and reasonably and logically, she laid out the case for support for this bill. But I have to deal with something else because as a long-time member of the Legislature, I'm concerned about process. There was much discussion on an earlier bill and I had no opportunity to get into that discussion. So I would like to ask Senator Groene a question or two since he is on the floor now.

FOLEY: Senator Groene, would you yield, please?

CHAMBERS: Senator Groene, would you yield to a few questions?

GROENE: Yes, yes, I will.

CHAMBERS: Did you say during that debate on that-- of that budget bill when they were talking about where the bill wound up, maybe where it should have been, did you say something about how the committee system needs to be protected and respected?

GROENE: Yes.

CHAMBERS: Okay. Senator Groene, I think I heard where you made a motion to pull LB147 from a committee.

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

GROENE: Yes, I did.

CHAMBERS: That's not your priority bill, is it?

GROENE: Yes, it is. It's the committee priority bill.

CHAMBERS: That's not your priority bill, is it?

GROENE: It's a Chairman's priority bill.

CHAMBERS: I should not ask a question if I don't know the answer, so since you don't want to answer it, I'll answer it for you. Your priority bill is LB606. It dealt with natural resources districts water augmentation. It was introduced in the Natural Resources Committee, if that's what it's called, and it's still there. Why didn't you try to pull your personal priority bill from that committee?

GROENE: Because it was deadlocked at 4-4 and I was given a fair hearing. And the Chairman-- I wasn't going to go against the Chairman. But I am the Chairman of the Education Committee and I had-- and the state of Nebraska wants this bill on the floor and I have no other duty but to make sure it gets heard.

CHAMBERS: Well, you're taking my time now--

GROENE: Thank you.

CHAMBERS: --because you didn't want to answer before, but now I'm going to ask you another question. Senator Groene, you answered that you're the Chairperson of the Education Committee, is that right? Senator Groene, you are the Chairperson of the Education Committee?

GROENE: Yes, I am. Yes, I am.

CHAMBERS: That bill was heard in your committee?

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

GROENE: Yes.

CHAMBERS: And your committee refused to advance it to the floor?

GROENE: The committee advanced the amendment to replace at 6-2 and for some reason, the new language had ended up 4-4.

CHAMBERS: Here's what I want to know. Your committee did not advance that bill to the floor, did they?

GROENE: No.

CHAMBERS: You're the Chairman of the committee. It's a committee bill. Is that correct?

GROENE: Yes.

CHAMBERS: It's a committee priority bill?

GROENE: Uh-huh.

CHAMBERS: Then I won't ask questions, my time will run out. You tell me about respecting the committee structure and the chairman of the committee is trying to pull a bill from his committee. He calls it a committee priority bill. Obviously, the committee does not agree. So that's what troubles me on this floor. Some of the most bombastic, pompous people on this floor violate the very things they condemn others for. How preposterous is it for a chairman of a committee to ask you all to pull a bill from his committee which his committee says, don't bring out here.

FOLEY: One minute.

CHAMBERS: He says the people of Nebraska want it here. The members here represent people because this is a Republican form of government. Now, I'm going to watch and see what you

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

Floor Debate  
May 15, 2019

---

hypocritical Republicans do. When you talk about process and respecting the system, and he was telling how the committee system has to be respected, he said that today when he was upset about something that another committee did, then he turned around and violated it in the worst manner I've ever seen. I've been here 40-some odd years and I've never seen a committee chair try to pull a bill from his own committee. My soul has been purged. My spirit is at ease. I've discharged my duty and responsibility and I hope Senator Groene will take it to heart and act appropriately. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Erdman.

ERDMAN: Thank you, Lieutenant Governor. It's great that I was in the second position 'cause I've only got about two of these cards left and I don't want to use them up. So let me say this. I am strongly-- I don't know whether that means anything --strongly opposed to LB110. When I was home the last time, I attended a funeral and a good friend of mine who is a doctor was there as well. And as we were leaving he said, we need to visit if you have a minute. I said I do. So we stepped over to the side and he said, you know, what concerns me about marijuana is we don't spend any time talking about schizophrenia and what happens to those people who use marijuana for a long period of time. And he said, it is a very serious issue and he said, I see it and I'm concerned about it, but seldom do we talk about it. And so as you look up what exactly marijuana does for those people who are schizophrenic, it says that those people that use cannabis are 300 times more likely to be schizophrenic, 300 times. It's an issue that we have to deal with. The other issue we have is they call it medical marijuana, whatever they call it, but it's never been approved by the FDA because it's not reproducible in the exact same quantities it was before. And as far as I know, in Colorado when you go to buy marijuana, medical marijuana or whatever they call it, you don't get a prescription, you get a permission slip. And it's because it's not a drug, it's regulated by the FDA, so the doctor doesn't know how much to give you or what the strength of it's going to be or how much to take. It's like playing Russian roulette. So I would assume they're probably going to make some kind of analysis of somewhat, or make an analysis of their history to see if they're schizophrenic and if they are, maybe they'll prohibit them from buying medical marijuana. But when they legalized marijuana in Colorado, and I pulled the chart up to see about their accidents and death fatalities or fatalities on the highway, the year after they approved medical marijuana was the highest year in fatalities on Colorado highways. So don't

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

Floor Debate  
May 15, 2019

---

tell me that marijuana doesn't kill people. It does kill people. We can talk about that and I know as I've said in the past, sometimes sharing facts don't mean anything here. But that's a pretty alarming statistic, the amount of fatalities that were had on the-- what Colorado had in fatalities on the highways after it was passed. And because there are so many people in the queue and people might not get to speak again, I'm going to yield the rest of my time to Senator Hilgers.

FOLEY: Thank you, Senator Erdman. Senator Hilgers, one minute and a half.

HILGERS: Thank you, Mr. President. Thank you, Senator Erdman. I also rise in opposition to LB110 and the accompanying amendments. I do want to thank Senator Wishart for the work that she's done along with Senator DeBoer, the Judiciary Committee. I understand they've invested a lot of hours into this and if it was in a different bill in another context, it would be something I probably could support. I can't support this bill in this context today. And we're going to talk about a lot of pieces of this. But I just want to start with, and I don't have much time, so let me just frame this from the beginning, which is there's a federal statute in place called the Controlled Substances Act. That explicitly prohibits those from dispensing marijuana or those that are Schedule I drugs and this is a Schedule I drug. Now this has a number of implications for this debate. The first implication, and I don't have a lot of time, but the first implication is that what we are doing here is based on a legal-- it's a legal house of cards. We are in direct conflict with federal law. And that goes, by the way, not just for this statute, but any amendment-- any petition that might be successful that might amend the Nebraska Constitution. I don't think we ought to be passing things that are in direct conflict with federal law. The second implication is one that was referenced by Senator Wishart in her opening, which is because it's a Schedule I drug there's very little data on the efficacy, the dosage, the potential value of marijuana. So there isn't actually very much data to support us doing what it is that we want to do, even if it wasn't in direct conflict with federal law. But on the same token, there's actually a whole lot of evidence and we're going to talk about this throughout this debate. There's a whole lot of evidence, scientific evidence showing the significant negative effects of marijuana. So as we go through this, I expect a great debate, a thoughtful debate.

FOLEY: That's time.



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

Floor Debate  
May 15, 2019

---

HILGERS: Thank you, Mr. President.

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

PANSING BROOKS: Thank you, Mr. Lieutenant Governor. Well, in the committee statement you'll see that I was absent for this vote out of committee and that's because I was at the graduation last weekend of our daughter in Washington, D.C. So I stand for the record, make clear that I wholeheartedly support LB110 and the amendments, AM1680 and AM1865. Since 2015, I've sat in the Judiciary Committee and heard these issues. I've heard the sky is falling mentality over and over again. I've heard the myth that this is addictive and we have to worry and what will happen to our society. I've heard the myth that it leads to recreational marijuana, when time and again the studies show that this is not true. The fact is that medical marijuana would become a tool in the tool chest of doctors. Not every doctor will use that tool. They will determine the need on a case by case basis. Senator Erdman talked about a 300 percent or more chance of schizophrenia. Well, Dr. Jim Sorrell at our hearing, who is from the Department of Health and Human Services, testified that it increases from a 1 to 2 percent chance of schizophrenia, not a 300 percent chance. I guess if you look at 1 to 2 percent, that's a 100 percent increase. But again, it's very low. So, hopefully, if a doctor knows that someone is schizophrenic, or has some issue, or some other issue or where it would not be good, a doctor would not prescribe it. This fear of reefer madness has been unsubstantiated for decades. Decades. What has been substantiated is opioid madness. Where are the bills to bring forth the requirements to stop the opioid abuse that pharmaceutical companies have placed upon our society for decades? But no, the pharmaceutical companies are up in arms about a plant, a plant that we've known about for millennia. And yet we're so concerned, yet not one-- not one statistic shows that anyone died from an overdose of marijuana. And we're not talking about marijuana, we're talking about medical marijuana. And then we have been sitting for years through the hearings on medical marijuana, and watched through our own tears about the pain and the suffering and the medical tourism that has had to occur while people leave from Nebraska to move into Colorado, to protect their child. I'll tell you what. If one of my children had that issue and had schizo-- or had 300 seizures plus a day, I would sure as heck be going and trying every single thing possible. So for us to sit here on our mighty horses and act as if, oh, this isn't something we need. Well, you and I might not need it, but I'll tell you what, the parents of the children who

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

Floor Debate  
May 15, 2019

---

came with helmets on their heads so that during seizures they didn't get brain injuries, and whose seizures we witnessed during hearings, need it. They've come to us. But the pharmaceutical companies have said no, don't worry. Let us handle it. There's not enough testing. There has been testing on this for millennia. And we've had testing, Senator Crawford had a bill that tested it and showed that there is value in medical marijuana.

FOLEY: One minute.

PANSING BROOKS: And that happened at our own University of Nebraska-Omaha Medical Center. So to act as if nothing can happen, this is going to be terrible for us. You know what, heroin is terrible. Are we saying that heroin should be available to the masses and on the street? No. What we're talking about is medical marijuana, the ability of a doctor to prescribe that marijuana to the patient whom they think needs that drug. And I hope that we can get past this. These stories are legion. The data showed that the military is using it. All sorts of states are using it and we have still not had a single overdose. So I stand in wholehearted support for the health of the people of Nebraska. Thank you.

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

WISHART: Thank you, Mr. President. I have a few rebuttals for some of the comments that were made. First of all, there was discussion about marijuana use can cause psychotic breaks and the increased risk of schizophrenia. First of all, I want to say there is no study, there is no study that proves causation between someone who consumes cannabis causing schizophrenia. There is no study that shows that. A recent letter signed by 75 health researchers and doctors state that proponents of this argument are cherry-picking studies and mistakenly conflating association with causation. And colleagues, be very careful, be very wary. I have sat through this debate for three years now, heard a lot of opposition where they conflate causation with correlation. The group of experts write, while associations between marijuana use and mental illness have been established, research suggests that the association is complex and mediated by multiple factors other than marijuana, including genetics. I would like to say as well, I heard from people at the hearing that there was concern about this. And so we looked to address this in the bill. What we do is we require, before a doctor can recommend cannabis to any patient who has a qualifying

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

Floor Debate  
May 15, 2019

---

condition for which they can be part of this system, they will do an extensive family history review to see if somebody has a predisposition for schizophrenia. So we are trying to address that issue as well. And for those of you who think that we magically live in a state where nobody currently is consuming cannabis, that is not a reality that we're living in. I also wanted to push back on the claims that medical marijuana laws are making roads unsafe. In fact, the 2017 study published in the American Journal of Public Health found that medical cannabis laws were associated with a decrease in fatal car crashes after the enactment of medical cannabis laws. Colleagues, the choice you have today is to vote in favor of LB110 and support public health, or vote against the bill and deny reality. Voting against this bill would be a denial of the reality that Nebraskans are already self-medicating with cannabis. Without the benefit of a doctor's safe advice and they're purchasing cannabis illicitly not knowing whether it's laced with another drug or molding, voting against this bill would be a denial of the reality that there is a petition initiative to grant a constitutional right to cannabis for medical purposes that's already been launched. It will gain enough signatures to go to the ballot and will be voted on overwhelmingly in support by Nebraskans. What we're doing with LB110 today is giving all of us, the Legislature, we were elected here to come and make laws. 32 other states have been able to do this and not one of those states has moved back on that decision. In fact, later on in my testimony, I will read quotes from law enforcement officers who came in opposed to legalization in states where medical cannabis is now legal, who come back a year later, two years later, three years later, they say the sky has not fallen. If you'll notice here, there are a majority of law enforcement officials, they stayed neutral on this bill. They stay neutral on this bill. They don't want to be spending their money going after sick people treating them like criminals. They have far bigger problems to deal with. We're going to hear from Senator Slama's bill coming up where she is going after human trafficking, child abuse. That's what our law enforcement officers should be spending their money on. We have limited funds. We've talked about that today with our budget. We have limited funds.

FOLEY: One minute.

WISHART: Where do we spend those funds? Where do our law enforcement officials spend those funds? And all of you are not going to vote on this and they're going to be spending their

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

Floor Debate  
May 15, 2019

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money treating sick people like criminals when they should be spending their money dealing with a lot more important issues.

FOLEY: Thank you, Senator Wishart. Senator Arch.

ARCH: Thank you, Mr. President. This is a very serious debate we have today because we take our duty very seriously here in the Legislature. Our duty, as I see it, as I understand it, is to do what is in the best interest of our citizens with the best information available. And debate is part of the disseminating of that information and this is a very serious debate because we have people who are suffering, who have serious medical conditions, and if this is the right thing for them, then we need to be considering that. There's a couple of things that give me pause as I consider this debate and after my reading and after my conclusions, I have come to the conclusion that I think the term, medical marijuana, is probably a misnomer. It is probably confusing at times because within the discussion, we find evidence of definitely efficacy in treatment. And we find FDA approval for a piece of that and then we find other things that are outside of that. And I just want to talk about that for a second. And I want to draw attention to a document that is from the American Epilepsy Society. And it was a statement that was published on December 20 of 2018, and it's their position, the American Epilepsy Society. Position on cannabis is a possible treatment for epileptic seizures knowing that this is one of those indications that is being discussed as a possible use of cannabis with epileptic seizures. But I want to read just a portion of it into the record so that we have that here. The term, quote, medical marijuana is a legal definition that refers to the use of cannabis on the recommendation of a healthcare provider in certain U.S. states. Currently, United States Pharmacopoeia standards do not exist to give either providers or patients information about the identity, purity, or quality of any cannabis product. And that, this U.S. Pharmacopoeia is an organization that creates the standard. They publish the book on medications, their use, their facts, their-- all the side effects, all the issues surrounding that. And currently, standards do not exist to give providers or patients information on the cannabis product. Given that over 80 active compounds derived from the cannabis plant called phytocannabinoids have been isolated, 80 active compounds, many with various pharmacologic actions, including psychoactive ones producing a high. It is important that an evidence-based approach be taken to the discovery, development, and clinical applications of these compounds. Over the last several years, there has been great interest in the medical and scientific

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

Floor Debate  
May 15, 2019

---

communities to explore the potential of cannabinoid oil, excuse me, cannabidiol, CBD, a nonpsychoactive phytocannabinoid to treat difficult to control epilepsy. CBD, we'll use that term. Until recently, only anecdotal reports existed to support CBDs use in treating epilepsy. Recently, important research data have emerged in the form of scientifically rigorous double-blind randomized clinical trials on the use of pharmaceutical formulation of purified, highly concentrated CBD for refractory epilepsy. These trials demonstrated that purified CBD is moderately more effective than placebo in the treatment of seizures in both Lennox-Gastaut syndrome and Dravet syndrome. However, these trials show that CBD has more side effects than placebo revealed previously unrecognized drug, drug interactions. The results of these scientifically rigorous randomized clinical trials led to the FDA approval of a pharmaceutical formulation of purified CBD, EPI dialects to treat persons with epilepsy. This drug is a Schedule V product available by prescription only and provided by specialty pharmacies.

FOLEY: One minute.

ARCH: And here is where I think we begin to get a little bit confused. There is an FDA approved pharmacy compound and it is CBD used for something very specific. But as it says here, the cannabis plant itself has over 80 active compounds. So they have extracted and purified one compound out of that cannabis and they used that for one specific incident. I think we need to be very careful. There will be more that will be bringing out on some of the medical issues surrounding the use of cannabis, but it is not all medical marijuana that we're talking about here. Thank you very much.

FOLEY: Thank you, Senator Arch. Senator Morfeld.

MORFELD: Thank you, Mr. President. Colleagues, I rise in support of LB110 and the underlying amendments as proposed. As a member of the Judiciary Committee, I've watched the last five years as people have come in, veterans, mothers, fathers, people suffering from chronic pain who could find no other source from relief other than going to a state that allowed for medical marijuana after years of ineffective treatment by addictive drugs that actually do kill people. When I asked our county sheriff how many people in his over 20-year history in the county sheriff's office, how many people did he see die from a marijuana overdose? Zero.

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

Floor Debate  
May 15, 2019

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Cocaine and methamphetamine is a Schedule II drug. Marijuana is a Schedule I drug. That should point to the absurdity of our system and our federal system in particular. In addition, I think it's important to point out that much of the data that has already been talked about on the floor is data that is either taken out of context or completely made up and false. We are making criminals, colleagues, out of people who are simply trying to seek treatment. And Senator Wishart's bill is imminently reasonable. It is one of the most narrow bills in terms of construction in allowing for this type of system. And it's going to be the best opportunity that you get to enact a true medical marijuana system before we put it into the Constitution. If that's the option you want, then that's fine. Then you're in my world and it's much less reasonable. I need to talk a little bit about and respond to some of the comments that Senator Hilgers made, particularly dealing with the Supremacy Clause. First, it's important to note that the United States is a government that is one of dual sovereignty and states act as laboratories of democracy. Medical marijuana laws do not require state workers to grow or dispense marijuana in violation of federal law, they just regulate private individuals like you and I who choose to do so. Requiring someone to break federal law is quite different than from allowing and regulating conduct under the law. And when discussing preemption, it's important not to forget about the Tenth Amendment that many of us bring up all the time when talking about other rights that we choose to exercise and would like to agree with more. The federal government is free to enforce its own marijuana laws but requiring state agents to enforce federal laws would be unconstitutional commandeering of state resources. The federal government-- and I want to repeat this. The federal government has never, never alleged in court that federal laws preempt state medical marijuana or legalization and regulation laws. In fact, the Department of Justice argued in favor of dismissing a lawsuit claiming that Arizona's medical marijuana law was preempted. That suit was dismissed. Since late 2014, congressional appropriations bills have prohibited the Department of Justice, including the DEA, from using funds to interfere with the implementation of laws that allow for the cultivation, distribution, and use of medical marijuana for medical purposes. A federal court of appeals ruling found that the provision was applicable not only to state government programs, but to individuals and groups that are acting in compliance with state laws. States are not required to enforce federal laws against marijuana possession or cultivation. The Controlled Substance Act, otherwise known as the CSA, which Senator Hilgers brought up, allows states to enact their own laws related to controlled substances and states are free to determine their own

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

Floor Debate  
May 15, 2019

---

penalties or lack thereof for drug offenses. Colleagues, we can bring up preemption and talk about it, but let's talk about it in the context that is legal and proper. Not in the context as--

FOLEY: One minute.

MORFELD: --just favorable and sounds good in debate. State government employees have never faced punishments for carrying out state medical marijuana laws. Colleagues, this is our last opportunity to pass a reasonable and narrowly-tailored medical marijuana regime. When I was running-- when I was running the Medicaid expansion ballot initiative, we never got above 60 percent in polling and we did three polls. Never got about 60 percent and we still won it with 53 percent of the vote. I have never seen polling. It is off the charts in support of medical marijuana in the state and we've done three polls and we've seen it. This will be passed in the Constitution and unlike Medicaid expansion, the Governor and the Attorney General will not be able to interfere with it. It will be a Constitutional right. This is your last opportunity to pass a very well-thought-out, very reasonable medical marijuana law that I would like to see broader, but I'm willing to work with Senator Wishart--

FOLEY: Time, Senator.

MORFELD: --and willing to work with others to get it done. Thank you, Mr. President.

FOLEY: Thank you, Senator Morfeld. Senator Hunt.

HUNT: Thank you, Mr. Lieutenant Governor. First, Senator Anna Wishart, you are a shining star. That was a wonderful opening on a bill that I know you've worked a long time on. It was reasonable. It was just wonderful to listen to in this body. I rise in support of LB110. I'd like to discuss a few points today and I'll begin by addressing some of the concerns that some members of this body have with the lack of FDA approval of medicinal cannabis. All of a sudden, my friends, we're worried about what the FDA says. While many uses of medicinal cannabis have not yet received FDA approval, the FDA has indeed approved two man-made cannabinoid medicines to treat nausea and vomiting from chemotherapy and as recently as 2018, a cannabinoid drug for the treatment of seizures associated with two rare and severe forms of

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

Floor Debate  
May 15, 2019

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epilepsy. The reason for medicinal cannabis has not yet-- the reason it has not yet received approval for other uses is not because of legitimate concerns about safety, it's solely for political reasons. In 1988, the DEA chief administrative law judge, Francis Young ruled that, quote, cannabis in its natural form is one of the safest therapeutically active substances known to man. By any measure of rational analysis, cannabis can be safely used within a supervised routine of medical care. It would be unreasonable, arbitrary, and capricious for DEA to continue to stand between those sufferers and the benefits of this substance in light of the evidence in the record. He, however, was overruled by a political appointee, DEA administrator, John Lawn. So for political reasons, not for medical or scientific reasons, the federal government and various agencies have been extremely hostile in allowing progress on medical research on cannabis. FDA approval requires research studies that adhere to stringent standards and the goal post for cannabis has been moved constantly. That unreasonable restriction, it's created a catch 22 that prevents cannabis from becoming an FDA approved medicine. For this reason, 32 states have taken matters into their own hands and moved forward to change their own laws. Despite insurmountable roadblocks as they seem, we know that medicinal cannabis has tremendous health benefits for many people. Thousands of scientific studies published in well-respected medical journals have shown us that it can slow down and stop the spread of cancer cells, slow down the progression of Alzheimer's, treat glaucoma, relieve arthritis, the list goes on. And there are legitimate medical studies out there that demonstrate the positive medicinal properties and safety of moderated prescribed cannabis use. Meanwhile, we're passing legislation to require physicians to provide information on an abortion reversal drug that has not been approved by the FDA, a drug that doesn't even have evidence to back up its efficacy. If we're going to do that, and we know we're going to do that, we might as well have a little consistency in our application of the law. To be clear, I don't think we can draw direct equivalence between this and the abortion reversal drug because progesterone is legal and testing can already be conducted on it for potential medicinal purposes, although nobody seems to be interested in testing it for abortion reversal before passing a law about it. Cannabis, on the other hand, can't even be tested. So I think that testing needs to be allowed to take place. Let's give physicians and pharmaceutical developers the opportunity to explore this substance as a treatment. Let's give them a chance to develop perfectly safe life-saving medications. And this would be an economic benefit to Nebraska that I haven't heard articulated yet in an argument. The ability to research these effects and, of course, we have UNMC in my district and we have the university here in Nebraska which



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

Floor Debate  
May 15, 2019

---

can do that. If you voted to keep the death penalty, colleagues, you cannot tell me that you don't want to legalize medicinal cannabis because it isn't an FDA approved drug. Because you can't tell me that it's okay to use non-FDA approved drugs to kill people, one in ten of whom are innocent, but we can't use a non-FDA approved drug to save lives.

FOLEY: One minute.

HUNT: We have to exercise some level of moral consistency here. Finally, my mood on medicinal cannabis is really two parts. If cannabis relieves symptoms for people who are suffering, let them take it. I don't know why we don't need to do that. It's already happening in 32 other states and we know it works and we know we need this in Nebraska. My other mood is that this doesn't go far enough. And I wish that we could elect people in this state with a political will to take the legalization of recreational cannabis seriously. I wish there was a bigger pool of people willing to run to reflect the actual of Nebraskans, the majority of whom support this legalization. There is something immoral to me about legalizing medicinal cannabis while people are still going to jail for possession. When we allow medicinal cannabis but not recreational, the people who benefit economically are from pharmaceutical companies and the mostly white, male, wealthy people who have capitalized on legalization efforts throughout the country. With that said, that needed to be said, but with that said, I support giving relief to those who need the help of medicinal cannabis and I very much support the opportunity this brings--

FOLEY: Time, Senator.

HUNT: --to Nebraska for the research on these drugs.

FOLEY: Thank you, Senator Hunt. Senator DeBoer.

DeBOER: Thank you, Mr. President. Good evening, colleagues. I have to tell you that I had significant concerns with the introduced version of this bill. But we heard the testimony in Judiciary and it was compelling. You know, mothers-- you've heard this, mothers with children, folks who are in pain at the end of their life, people with very significant medical concerns. And then I also took the time to look at the cannabis bills around the country and it's something kind

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

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of interesting. In the most conservative states, what we might consider the most conservative states in the country, the laws around cannabis when they have been passed, are quite broad. And in the most what we might consider liberal states in the country, where we expect maybe they would be broad, they are in fact quite limited. And then you figure out the reason why. The bills which are limited are passed by Legislatures. And the bills which are broad tend to be passed by the people. So we have an opportunity here to look at a bill which is, I think, a rather amazing piece of legislation. It is well-crafted, it is well-thought-out. And so, I want to say thank you to Senator Wishart who did an amazing job, showed amazing prowess at working with all of the stakeholders with thinking about all the different kinds of possibilities of things that might come up, and then also recognizing that she couldn't do it alone, involving lots of other people, and so I want to thank her and her staff. And I also want to thank the other members of the Judiciary Committee and especially legal counsel who helped out. So thank you to them. So I came into this bill through my work on the Judiciary Committee and because I had concerns with the initial introduced copy, got an amendment that was much improved and then I thought I would address some of these other issues as well. So if you hear people tripping over whether to call it medicinal or medical, that little change I was the one who thought maybe we should do that because I thought, well, maybe we should make sure to distinguish the kind of process that this went through and look at the homeopathic sort of efforts of this particular plant. So first I want to say to everyone, read the amendment. Read the amendment. There's a lot of things going around out there, lots of e-mails we're getting, and they don't really have anything to do with the amendment that we actually have before us, what we're actually going to vote on. So I know you didn't get it until recently. I recognize that. And also I know it's long. Here is my copy. There's about four different colors of ink 'cause I've been through it so many times. Read the amendment. This is an amazingly thought-out bill. Thank you to Senator Wishart. So there are specific concerns that I've heard, specific concerns I had. That's why we're calling it medicinal, because I think we ought to recognize that this is a kind of a homeopathic remedy. A remedy that has not yet undergone the full FDA approval process, true, but neither has tumeric, which is very good for inflammation.

FOLEY: One minute.

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

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DeBOER: Garlic, which is very good. It's an antimicrobial. Ginger, when you're sick to your stomach. Look at the bill. Under this amendment, you can't smoke it. You can't grow it. You can't use it in a car. You have to have a real relationship with the doctor. Limited to very serious medical conditions. You have to have warnings. There is an open container law similar to alcohol so that you can't have an open container. And I think Senator Wishart would be willing to work on other things. Colleagues, come to the table. Read the amendment. Come to the table. This is not a recreational bill. This is a narrowly-tailored bill and I think Senator Wishart would be willing to tailor it even more if we need to. Come to the table and be part of this conversation so that we can craft an appropriate--

FOLEY: Time, Senator.

DeBOER: --version for Nebraska. Thank you, Mr. President.

FOLEY: Thank you, Senator DeBoer. Senator Clements.

CLEMENTS: Thank you, Mr. President. I was looking at who was testifying on this bill and opposing it. I see that Governor Ricketts opposed it; former Governor, Kay Orr; former Husker football coach, Tom Osborne; Department of Health and Human Service Behavioral Health director, Sheri Dawson; Health and Human Services psychiatrist, Dr. James Sorrell; Nebraska State Patrol Superintendent, Colonel John Bolduc. All those testified or made statements in opposition of this bill. And as I was looking through the bill, I also noticed that it says the state treasurer shall credit to the medical cannabis regulation fund all of the fees and proceeds of the sales taxes imposed on this cannabis product, which means no revenue will go to the state's General Fund. No property tax relief will be received by this. As I was campaigning, the people who said, especially farmers, said go ahead and legalize marijuana and tax the heck out of it so we can lower our property taxes. Well, this is not going to benefit the taxpayers at all. It's going to a regulation fund. With that, I yield the rest of my time to Senator Geist.

FOLEY: Thank you. Senator Clements. Senator Geist, 3:25.

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

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GEIST: Thank you, Mr. President. And I spoke on this a couple of years ago and I'll say the same thing now as I said then. And I would just simply ask the question, is there any other drug-- and this is a drug --that a Legislature has been asked to approve? And the answer is simply no. This is the job of a scientist and not a citizen legislator. We do not know so much about this drug. Some of the things that are coming out that we do know, I would say, however, in some cases may be therapeutic. In others, may be quite frightening. The risk, does that outweigh the reward? The risk can be very great. We do not know how this affects a woman who is pregnant. We also do not know conclusively how this affects a young mind that is smoking heavily, regularly. However, studies are coming out and at least as much anecdotal information is coming out that shows young minds are very potentially negatively affected by the prolonged heavy use of marijuana. I noticed in this bill that there is-- and this is the newest amendment --is that there is no limit on the level of THC. That's very important information to know. It's probably going to be posted in the dispensary, but the level of THC that a person receives is vital to know. And how frequently can someone who gets a prescription go into the dispensary and receive a two and a half ounce bag of marijuana? That's not stated. It's stated for those who get a discount, but it's not stated for those who pay full price. I would also say-- and I will speak on this hopefully more -- about the many, many dating back many years, the evidence that links the possible relationship of schizophrenia and psychosis, even if that is possible and it certainly looks probable, and I have five studies right here in front of me using tens of thousands of patients over many countries that show the same relationship over and over and over.

FOLEY: Time, Senator.

GEIST: Thank you, Mr. President.

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

M. HANSEN: Thank you, Mr. President, and good evening, colleagues. I rise in support of LB110. Would like to thank Senator Wishart and her staff for all the many years of hard work they've put into this issue. I would actually like to yield my time to Senator Chambers.

FOLEY: Thank you, Senator Hansen. Senator Chambers, 4:45.

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

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CHAMBERS: Thank you, Mr. President. Thank you, Senator Hansen. The ones who have spoken in front of this bill-- in favor of this bill are speaking factually. There are some people, and I'm looking at some of them now, and I can look anywhere else in this Chamber and I will see people who when we were talking about that phony so-called abortion reversal, senators knew enough about the medication and the way it operated to speak like authorities. The real doctors, the real obstetricians, all of them pointed out that it's nonsense, it's non-science, but the senators knew more. Now we come to medical cannabis where the doctors and those who do understand, those who have used it, state the factual circumstances and now the senators saying, such as Senator Geist, what are we senators know? Well, she doesn't know anything about that so-called abortion reversal, but she voted for that because these people are being moved by religion and religion is based to a great extent on ignorance. I have sat through several hearings. People give lip service to doing things for veterans. There were veterans who testified. They had injuries. But it wasn't just the physical pain, but that posttraumatic stress syndrome that they were experiencing that medical cannabis helped alleviate. And by the way, for Senator Geist's information, they were not smoking it. I saw parents bring their children, the parents were not actors, their children were not little actors, and some of them were in wheelchairs. They had helmets on because nobody could tell exactly when this child might have a seizure, which means nothing to you all. But these children had multiple seizures. Sometimes more than a dozen in a relatively short period of time and the only thing that helped was this medical cannabis and some parents would take their children to states where it was legally obtainable. Others would run the risk of being caught with it in Nebraska because they didn't want to take their child. They would procure it and bring it to their child. I have pointed out that I'm a father and if my child were having these seizures, I'd have to risk going to jail for however long if there was some medication that would help my child. You all are so hypocritical who pretend that you know so much when, if you'll even watch television, the drugs that are allowed to be sold to you by big pharma are compelled to tell you the side effects. They talk about your throat swelling up so you can't talk. You might bleed. Some of them are even fatal and they tell you all these horrible things. Every one of them that can happen to you and not a whisper here. The FDA has become highly political. As for Ricketts and his crickets, one of whom is, I hate to say it, Senator Clements because he was appointed by Governor Ricketts, he and his Attorney General in violation of an FDA rule which had the force of law, were trying to import sodium thiopental to be used in executions and they were told, they were told--

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

FOLEY: One minute.

CHAMBERS: --that this drug has no legitimate use in the United States and it cannot be imported and the Governor and the Attorney General spent \$54,000 with a drug dealer in India. They paid the money and never got the drugs that were prohibited by the FDA. Senator Clements doesn't talk about when his Governor was violating the law, and the U.S. Attorney had to tell him directly that if you manage to get it here, you have violated the federal law. Then they stopped trying to import this illegal drug from an illegal drug dealer in India. So when I hear all these hypocritical statements made by people like Senator Clements who doesn't know what he's talking about, doesn't know that his Governor was in violation of FDA law, and his Attorney General trying to illegally import drugs that were prohibited by federal law--

FOLEY: Time, Senator.

CHAMBERS: --it's all I can do not to retch. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Slama.

SLAMA: Thank you, Mr. President, and good evening, colleagues. I rise wholeheartedly in opposition to LB110, AM1680 and AM1865. And I'd just like to draw a bright line in the sand that right now the difference between this bill, LB110, and a bill we discussed earlier in session, LB209, is the progesterone is not a Schedule I narcotic. Marijuana is. And before we get on this mike to argue that that's a political decision, it's just the feds dragging their feet, I'd like to note that we've just gotten through eight years of having President Obama at the helm. He had every opportunity to delist marijuana. He chose not to. So, folks, this is not a political decision. It is a medical one. And I wholeheartedly agree with Senator Hunt, before we as a body legalize anything that's going to be prescribed as medicine, we do need to test it and research it. And I find it very concerning that we're putting the cart before the horse here on a Schedule I narcotic and treating it as medicine. And just very quickly I would like to reference the NAS compilation of about 10,000 reports into the potential benefits and issues with medicinal cannabis because they did have some interesting findings. The report's key finding fell into a few different categories, so one, injury and death. Evidence suggests that driving while high increases the risk

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

Floor Debate  
May 15, 2019

---

of a car accident. Fair enough. In state's where marijuana has been legalized, evidence suggests that children are more at risk of ingesting marijuana. Cannabis use could also harm adolescents educational and social development. Mental health. Cannabis use is likely to increase the risk of developing schizophrenia, social anxiety disorders and to a lesser extent, depression. Heavy marijuana users are more likely to report suicidal thoughts than nonusers and people with bipolar disorders who use marijuana almost daily show more symptoms than nonusers. Cancer evidence does not support a link between smoking marijuana and cancer specifically associated with tobacco such as head, neck, and lung cancer. Evidence suggests that smoking marijuana on a regular basis is associated with chronic bronchitis and phlegm production. Addiction. Evidence suggests that people who use more cannabis are more likely to be addicted and that the younger people start, the more likely they are to develop problematic use. So these are the findings in the compilation that the NAS did that Senator Wishart referenced in her opening. Their findings weren't all good. In fact, they only found conclusive positive links between medicinal cannabis and three different ailments. Oh, yes, to reduce nausea and vomiting from chemotherapy. Already been decided to treat chronic pain, and to reduce spasms from multiple sclerosis. Folks, we just don't have conclusive evidence that makes me comfortable as tje state Legislature superseding the federal government and legalizing a Schedule I narcotic as medicine. Let me repeat that. A Schedule I narcotic as medicine. And with that, I would like to yield the rest of my time to-- is Senator Arch on the floor? Yes, I'd like to yield the remainder of my time to Senator Arch.

FOLEY: Thank you, Senator Slama. Senator Arch, 1:15.

ARCH: Thank you. Thank you Senator Slama. You know, I-- this is my first year here but I appreciate the collegiality of this body, because as I was speaking about the American Epilepsy Society, Senator Wishart notified me that there's also been an update of that particular document. So I want to go to that document and continue the discussion of where they are and read something else. And this is now the February 19th document from the American Epilepsy. Persons with epilepsy must use caution because there's a vast array of other cannabis products and availability is dependent on individual state laws. Of importance, this new prescription product, Epidiolex, cannot be obtained from a cannabis dispensary. So the purified form of CBD is dispensed from the pharmacy, but not from a cannabis dispensary. When patients purchase

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

Floor Debate  
May 15, 2019

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cannabis-based products from a dispensary, it's extremely important to understand that the product they select may not contain just CBD but also other vital cannabinoids such as THC, pesticides, and other dangerous impurities of which the concentrations are unknown.

FOLEY: Time, Senator.

ARCH: In some states, CBD is--

FOLEY: Time, Senator.

ARCH: Thank you.

FOLEY: Thank you, Senator Arch. Senator Albrecht.

ALBRECHT: Thank you, President Foley. I rise in opposition to LB110 and amendments that follow. Like everyone else, they reach out to the different people that they need to clarify a bill and I happened to visit with a physician who responded back and I'd like to read what he has to say. And Senator Chambers and Senator Hunt, you can listen up. Medical marijuana is not medical. You can call it medicinal, you can call it whatever you choose, but Nebraska's physicians focus on alleviating human suffering while searching for better treatments to improve the quality of life of our patients. We base our use of medicines-- or medications on peer review and evidence-based science with approval by the Food and Drug Administration. Our patients expect us to provide pertinent information, therapeutic options, and potential risks to have informed consent regarding medications we prescribe. We, physicians, are aware of the growing interest in the use of marijuana, cannabis, prior to the recent introduction of LB110 in the Nebraska Legislature which would legalize medical marijuana and also the possible valid initiative in 2020. The cannabis plant has over 150 active ingredients and a limited number of clinical studies exist regarding its effectiveness for a long list of possible medical conditions. We understand that much of this debate centers on other issues that include ideology, industry interest, political positioning, and personal freedom. We believe that we need to inform the people of Nebraska about the medical aspects and the consequences of the use of cannabis for medical treatment without rigorous science-- scientific study and FDA approval. Reviewing the



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

Floor Debate  
May 15, 2019

---

current medical science that appears to be a very small group of patients for whom cannabis may provide some relief and clinical benefit, there are passionate advocates offering compelling and anecdotal reasons for the use of cannabis. A sample of these include patients with rare forms of seizures, cancers, and those who are terminally ill. Importantly, a much larger group of potential patients could very likely be harmed by the use of cannabis. The National Academy of Medicine released an in-depth report in January of 2017 on the medical evidence surrounding the use of cannabis for various conditions as well as the risks and harms associated with its use from a medical standpoint. The report indicated cannabis increases the risk of mood disorders, bipolar disorders, depression, anxiety, and developmental schizophrenia. Documented evidence reveals an increase in substance abuse disorders, including opioid addiction, alcohol abuse, and other illicit drug use. Moderate evidence exists and persistent use of cannabis worsens the symptoms and increases the severity of post-traumatic stress disorder. Limited evidence supports an increase in the appetite and a decrease in weight loss associated with HIV and Aids. Evidence demonstrates effectiveness in a narrow spectrum of pediatric and adult seizure disorders as well as Tourette's syndrome and muscle spasms and MS and specific types of chronic pain. The National Academy of Medicine also identified studies demonstrating an increase in motor vehicle accidents, overdose injuries, and impaired social functioning. Cannabis impairs cognitive learning and memory attention and psychomotor function. The current classification of cannabis by the Food and Drug Administration as a Schedule I, severely restricts traditional drug testing. Our state senators, as well as our federal congressional delegation, should be focusing on leaving the DEA reclassify cannabis as a Schedule II to allow for a traditional scientific and clinical testing. Until such wide scale testing occurs, it remaining dangerous for the legislative body or the public to ask physicians and other prescribers to be the gate keepers for marijuana, cannabis, in our state. If there are therapeutic uses for cannabis, those should be identified by the Food and Drug Administration-- approval process like any other medication. And this would allow scientific dozes, side effects and other potential drug interactions to be determined. Like any other medication, it would come from a pharmacy and not a dispensary. At the time medical marijuana would become medical.

FOLEY: That's time, Senator.

ALBRECHT: Thank you.

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

Floor Debate  
May 15, 2019

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FOLEY: Thank you, Senator Albrecht. Senator Williams.

WILLIAMS: Thank you, Mr. President, and good evening, colleagues. And I rise in opposition to LB110. That has been the position I have been in all five years in the Legislature. And no matter how late we stay tonight, this day and night will not rival my first experience with this issue in the body when I did during my first two-years serve on Judiciary Committee. And in my first year when we had marijuana day, we had five bills that were geared towards some aspect of marijuana, either the criminalization or decriminalization, and, of course, the final one that evening was the medical marijuana, which is what we called it that first year. That term evolved into medical cannabis and now has evolved into medicinal cannabis. But the underlying bill, the underlying issue that we're looking at hasn't changed irregardless of what label you put on it. We have high expectations in Nebraska. We expect high standards. We're proud of our university. We're proud of our Legislature. We're proud of our number-one industry, agriculture. And I want to do something here that we're proud of also, and it is our job here to create public policy. And when we create public policy, we are doing it for 1.9 million people across the state. And it's tough at times, especially in those early days that some of you have not had to experience when we had moms and dads, grandparents, bringing some of their children to visit you in your office that our current medical processes and procedures have failed. And I have great empathy for them, but when I think about creating public policy and where we go and the direction we take our state in legalizing a Schedule I drug, I can't go there. Legalizing medical, medicinal, marijuana, cannabis, you pick your label, is the first step taking us down a path that I'm not willing to go. Much of the discussion on this issue becomes trying to separate out emotion and facts. And I've said it before, don't let your beliefs become facts. And that's what it's really easy to do with this. We get thrown words, you know, have courage, be brave, do this. You know, that's just not the way we do it. We have to be smart. Look for a proven process. Be consistent with what we do. I applaud the work that Senator Wishart and others have done on this issue. I have counseled with them on numerous occasions over this past year, and two-years, but I have also reached out as they have to their experts. And when I talk to law enforcement, when I talk to judges that I know and talk to them about what they see--

FOLEY: One minute.

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

Floor Debate  
May 15, 2019

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WILLIAMS: Thank you, Mr. President. --and I talk to prosecutors and the medical community and the pharmaceutical community, it is a universal, no. We all think about our constituents. My constituents, as opposed to some others, are dead set against this. That's just where they are. With that, I had promised Senator Wishart I would yield her a short amount of time. It may be too short, but Senator Wishart, I would yield you the balance of my time.

FOLEY: Thank you, Senator Williams. Senator Wishart, 20 seconds. She waives the opportunity. Senator Lowe.

LOWE: Thank you, Lieutenant Governor. People of the second house, all of you out there in NET land and listening to us, we've been urged-- I don't want to say we have been threatened, but we have been urged strongly that if we do not vote for this bill, they will bring the referendum and we will have marijuana. Don't believe it. Be strong Nebraska, be very strong. I was just in Colorado this last weekend for a funeral of a close cousin of mine. While there in talking to some of the people there, they said-- and when they found out I was a State Senator from Nebraska, they said, don't do what we have done. It's not good for Colorado. I also know six families that have moved to Nebraska from Colorado because of what is happening now in Colorado. And now they have mushrooms coming to Denver. Don't tell me this is a slippery-- this is not a slippery slope. This is a slippery slope. No matter if we start out with a conservative medical marijuana bill, or if we start out with hemp, or if we just go directly to everything and include the mushrooms and marijuana and everything else, we're on our way down a bad direction. September 28th in 2018 in the Denver Post, Bob Troyer posted an editorial. It's titled: It's high time we took a breath from marijuana commercialization. Where has our breathless spirit into full-scale marijuana commercialization led Colorado? Well, recent reports from the Rocky Mountain High Intensity Drug Trafficking Area, from Denver Health, from Energy Associates, from the Colorado Department of Revenue and from the City of Denver should be enough to give everyone in this race pause. Now Colorado's youth use marijuana at a rate 85 percent higher than the national average. Now marijuana-related traffic fatalities are up 151 percent. Now 70 percent of the 400 licensed pot shops surveyed recommended that pregnant women who use marijuana to treat morning sickness. Now indoor marijuana growth consumes 17 times more power per square foot than an average residence. Now each of the approximately one million adult marijuana plants grown by licensed growers in Colorado consumes over 2.2

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

Floor Debate  
May 15, 2019

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liters of water per day. Now Colorado has issued over 400 [SIC] little publicized recalls of retail marijuana laced with pesticides and mold. And now Colorado has a booming black market exploiting our permissive regulatory systems including the Mexican cartel growers for that black market who use nerve-agent pesticides that are contaminating Colorado's soil, waters, and wildlife. Marijuana commercialization has led Colorado in to these places. It has also led Colorado's prominence in other states considering commercialization. As the U.S. attorney leading over other U.S. attorneys on marijuana issues,--

FOLEY: One minute.

LOWE: Thank you. --I have traveled the country and heard what people are saying about Colorado. Do they tout Colorado's tax revenue from commercialized marijuana? No, because there has been no net gain. Marijuana tax revenue adds less than one percent to Colorado's coffers, which is more than washed out by the public health, public safety, and regulatory cost of commercialization. Do they highlight the commercialization's elimination of the marijuana black market? No, because Colorado's black market has actually exploded after commercialization; we have become a source-state in a theater of operation for sophisticated international drug trafficking and money laundering organizations from Cuba, China, Mexico, and elsewhere. Thank you, Mr. President.

FOLEY: Thank you, Senator Lowe. Senator Geist.

GEIST: Yes, thank you, Mr. President. The conventional wisdom has been that cannabis doesn't increase violence because people tend to be mellow when they're stoned. When, in fact, there's quite a number of studies that have shown that there's a close relationship between violence and those who smoke marijuana, not well-known. A 2013 paper in the Journal of Interpersonal Violence used data from federal survey of more than 12,400 American high school students to examine the link between alcohol, marijuana, and aggression. The researchers initial hypothesis, which they published as part of the paper was that alcohol increased violence while marijuana reduced it. Instead, they found that students who had recently used marijuana, but not alcohol, were more than three times as likely to be physically aggressive as those who abstained from both, even after adjusting for race and sex. Those who used alcohol, not marijuana, were 2.7

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

Floor Debate  
May 15, 2019

---

times as likely and those who used both were six times as likely. There's also a 2016 paper published in the Psychological Medicine magazine that studied 400 boys at age 18, 32, 48. There's another paper in 2013 in the American Journal of Psychiatry. There's another paper, 2008, that study, in the European Journal of Public Health. Another one in 2017, Social Psychiatry and Psychiatric Epidemiology that surveyed 6,000 young men. All of them finding an increased violence among those who regularly use marijuana. My fear in talking about the risk reward of this drug and legalizing this drug in our state, is that what we've been discussing on our floor lately about mental illness, our Corrections system, our lack of facilities for those who are mentally ill or violent, are we going to create a problem that is even bigger than what we're dealing with today? Simple question. And with that, I will yield the rest of my time to Senator Arch.

FOLEY: Thank you, Senator Geist. Senator Arch, 2:20.

ARCH: Thank you, Mr. President, and thank you for yielding your time. I want to finish my comments on the American Epilepsy Society. I want to quote from a different document from them which was published May 5, 2018, Epilepsy, Medical Marijuana and CBD: Myths and Facts. And I want to quote one of the myths that they identify here and I'm just going to read from their document here. Myth. All medical marijuana is the same. Fact. All medical marijuana is not the same and it's difficult to know what you're getting. While pharmaceutical-grade CBD-- we've talked about that --is a purified, highly-concentrated formulation manufactured under strict safety and effectiveness standards, there are many strains of medical marijuana with varying levels of various compounds. Parents of children with epilepsy who aren't in clinical trials for pharmaceutical-grade CBD should caution against asking a doctor to prescribe medical marijuana since it may contain pesticides and other dangerous impurities with unknown concentrations. (Recreational marijuana-- approved in nine states and the District of Columbia -- may be even more likely than medical marijuana to have impurities.) Also, samples of medical marijuana from dispensaries have shown that labels on products claiming to have a certain level of the compound CBD or THC, the psychoactive component that produces a high, often are incorrect. The last thing I want to comment is from the document from the American Epilepsy Society of February 19th and I think that we could all agree to this. The AES calls on government private funders and manufacturers to support and develop well-designed controlled

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

Floor Debate  
May 15, 2019

---

scientifically rigorous research for any cannabis-based products that have potential positive effects in the treatment of resistant epilepsy. There could very well be within cannabis a compound that could be very effective and very useful. And AES calls for science, calls for research, that we might identify those things, but cautions against the use of medical marijuana. Thank you.

FOLEY: Thank you, Senator Arch. Before proceeding, items for the record, please.

ASSISTANT CLERK: Thank you, Mr. President. Your Committee on Enrollment and Review reports LB294 as correctly engrossed and placed on Final Reading. Senator Matt Williams would offer LR141. That will be referred to the Executive Board. Amendments to be printed: Senator Erdman to LB294. That's all I have at this time, Mr. President.

FOLEY: Thank you, Mr. Clerk. Continuing debate. Senator Hilgers.

HILGERS: Thank you, Mr. President. Good evening again, colleagues. I rise again in strong opposition to LB110. I want to respond to a few of the comments from my friend, Senator Morfeld, on the preemption questions. I think it's worth unpacking this a little bit so the body understands what the legal framework is so we understand what it is that we're operating under. So, there is a-- in the Constitution, there's two sections that are important. One is the Commerce Clause of the United States and the second one is the Supremacy Clause. And the Supremacy Clause says that where there is a conflict or as has been interpreted where the federal-- between federal and state law or where the federal government has sort of occupied a field, then that federal law preempt is supreme to the state law. So it's a very common, common and longstanding part of our Constitution. The Interstate Commerce Clause underlies the Controlled Substances Act. Now, the Controlled Substances Act is a very-- it creates a very highly-regulated closed system scheme for drugs. Not just Schedule I drugs but any other kind of drugs, whether it's opioids or anything else that's regulated by the FDA. So that closed scheme means when it comes to Schedule I drugs, that you can't dispense, manufacture, or use those drugs. Now it seems to me to be plainly in conflict to say on the one hand, the federal government prohibits you from using these drugs or dispensing these drugs, but on the other, having the state say no, no, no, you can do that. Those two things are directly in conflict. Now you don't necessarily have

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

Floor Debate  
May 15, 2019

---

to take my word for it because I know Senator Morfeld has pushed back on this point, so I'm going to refer you to the case *Gonzales v. Raich* from 2005. That was a case in which the state of California actually had a medical marijuana law that they had just passed. And they sued the federal government because they wanted to enjoin, they wanted to prohibit, restrict the federal government from enforcing the Controlled Substances Act. Why would they do that? Because if the CSA applies, it would be in conflict with the state law, they could-- their state law would not be supreme and they couldn't enforce their state law. So what happened? Well, went-- ultimately went to the United States Supreme Court and the United States Supreme Court said, this is clearly in conflict. It clearly is, that if you allow this loophole by state law, you are putting, quote, a gap in the closed regulatory scheme of the CSA. That's part of their broader, interstate commerce hold. The main thrust of the case actually was whether or not Congress had the power to regulate intrastate marijuana producers for medicinal purposes. But inherent in that holding was that the CSA was in conflict with the state law. Now what happens since they consider Morfeld is largely correct that there hasn't been a lawsuit to shut down, as far as I'm aware, any state medical-- from the federal government, any state medical marijuana scheme. Now, I say largely correct because I think *Gonzales* is pretty clear that you can't do that, but *Gonzales* was not a lawsuit from the federal government. It was a lawsuit from the state. So what happened? Because I think that's a great point and I think we ought to explore that. Well what happened was in 2008, we had a change in administration and that administration starting in 2009 at the federal level, the Department of Justice gave guidance and said, we're not going to enforce this anymore. We're not going to enforce these marijuana laws against the state. It's just going to be part of our regulatory guidance. Now as an aside, I would say, while we do-- there's such a thing as prosecutorial discretion, I think it is very troubling that the federal government has backed away from its obligations under the Controlled Substances Act. It is very troubling. And quite honestly, in other contexts around this country, you see state Attorneys General or at the federal level, the Department of Justice, back away from things that they don't find that they want to politically support. They back away from enforcing those laws.

FOLEY: One minute.

HILGERS: Thank you, Mr. President. I think that's very troubling but it's exactly what happens here. So if you ask yourself, well, if you see and ask and say, well, why is it there were no states

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

that were sued and shut down? The reason is, in large part, because the federal government said they're just not going to be in the business of doing that anymore. That doesn't take away the Controlled Substances Act. It doesn't repeal the Controlled Substances Act, and that's why this is on a house of cards. Because, one, this is still in conflict with the statute, period, full stop. But even if you think that, well, it might be in conflict but nothing is going to happen, you are rolling the dice that a future-- head of the Department of Justice, the Attorney General of the United States, won't change that guidance. In fact, you've already started to see Attorney General sessions at the time in 2018 start to change that guidance. So I think it's very clearly in conflict with the closed regulatory system of the Controlled Substances Act. I think that's supported by Gonzales, and I don't think we ought to be going down the road of passing laws to permit a Schedule I drug--

FOLEY: Time.

HILGERS: --that is in conflict with the CSA. Thank you, Mr. President.

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

ASSISTANT CLERK: Thank you, Mr. President. Senator Morfeld would move to recommit LB110 to committee.

FOLEY: Senator Morfeld, you're recognized to open on your motion.

MORFELD: Thank you, Mr. President, and colleagues, and those watching. I obviously have no intention to recommit this to committee and I'll withdraw the motion after I'm done talking, but given as though there's so many people in the queue and I won't have the opportunity to speak before we end debate on this, I conveniently put it right after Senator Hilgers' comments that brought Gonzales out of context in what we're talking about here. So let's talk a little bit about that and let's talk about some case law that's actually on point here. First, Raich was a patient and she was claiming that the federal government could not prosecute her. This was-- this had nothing to do with whether or not the state could regulate or allow dispensation. So, sure, we can talk about the Supremacy Clause but let's talk about it in the context that we're talking about. If



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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

you're going to use the argument that the Supremacy Clause does not allow us to pass this law, you are incorrect. You're incorrect and it has been proven that way in 32 other states that the federal government has not interfered with medical marijuana. That is what we're talking about here. Yes, the Supremacy Clause exists. Thank you, Senator Hilgers, but it does not interfere the way that the federal government has been acting and enacting laws in intent language and rules and regulations of the Department of Justice, NDA. It has not interfered with states that are allowing medical marijuana. In 2017, one decision that is instructed, *NCAA v. Murphy*, the U. S. Supreme Court affirmed what has long been known, the federal government cannot commandeer a state's resources and force it to criminalize something. That is actually on point to a certain extent here. Colleagues, you're going to hear about the Supremacy Clause, but the bottom line is, yes, the Supremacy Clause exists. I'll readily admit that, but the Supremacy Clause has not been used by the federal government in order to stop legalization of medical marijuana. Quite to the contrary, the federal government, Congress controlled by Republicans at the time, since 2014, has actually made it so that the DEA, the Department of Justice, will not interfere with states that legalize marijuana, medical, or otherwise. And if you want to get up on the floor and talk about the FDA and how this hasn't gone through the FDA process, that's another bogus argument. Why? Because in the FDA process, we have not even been able to allow for proper research because of the politics within the FDA and the fact that it's a Schedule I drug. A Schedule I drug which is completely, absolutely, bogus as compared to other much more dangerous drugs that are Schedule II drugs. If we want to talk about dangerous drugs, let's have a conversation about alcohol. Let's have a conversation about opiates. Let's have a conversation about a lot of other drugs like methamphetamine, which is also a Schedule II, that is much more dangerous. We haven't had the research. Why? Because some of the same people that are advocating against this bill have been advocating against actually being able to have that research and then turning around and coming to the floor of the Legislature like this, saying, oh, wow, well, we haven't had the research. I don't know, we can't do it. Colleagues, if we're going to debate the merits on the constitutional claims, let's do it properly within the context of what we're talking about here and not just throwing out the Supremacy Clause, throwing out the Commerce Clause, and then throwing out a case that is not on point. With that, I'd yield the remainder of my time to Senator Wishart.

FOLEY: Thank you, Senator Morfeld. Senator Wishart, 6:00.

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

Floor Debate  
May 15, 2019

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WISHART: Thank you, Mr. President. Colleagues, I want to do some rebuttals on some of the comments that have been made. First in terms of Senator Geist discussion, I'd like to see those studies in terms of the violence increase with cannabis consumption. Again, I want to caution everybody that when you're looking at studies, and this is something that has been a hard lesson for me over the three years of looking at this issue, you really got to be careful that you're not looking at studies that are conflating causation and correlation. From the research I've done, there is absolutely no rash of violence of teens on cannabis in states of medical cannabis legalization. We would have heard from it. In fact, teen use is down in states who have medical cannabis legalization. And to push back on Senator Lowe and his arguments around Colorado, that has nothing to do with what we're doing right now. That has nothing to do with what we're doing right now. We are not talking about recreational cannabis, we're talking about a tightly controlled medical system. And going back to the violence with cannabis use, my husband was a police officer for five years. I can tell you, he never came home-- and let me tell you, he came home many nights and told me of stories being on the night shift and dealing with alcohol, dealing with meth. Meth, that's the worst what it does to people. He had never come home and told me, I just got in a fight with somebody because they had consumed too much cannabis. Never. I've never heard that from any of the friends that he worked with in LPD. So, I'd like to see that study. The United States, we trace how much alcohol affects violence in this country and there are no statistics that I have seen in researching this that shows causation between cannabis and violence. So, I'd be happy to see that study. Second, in terms of Senator Arch, he's brought up some really good points and I appreciate his discussion. I do want to say though that the Epilepsy Foundation is over-- their national foundation is overwhelmingly supportive access for their members to medical cannabis. I have the national statement here and, in fact, the Epilepsy Foundation of Nebraska has been one of the organizations that has been most in contact with me in support of this legislation as I've been working it. To address Senator Clements discussion on property tax relief, I will gladly grant property tax relief with any additional funds we receive from this medical cannabis system. We have created it in terms of the licensing structure so we can anticipate it will be completely self-sustaining. It will not cost any additional General Funds once we get the system up and running, and, in fact, we anticipate, if you look at the fiscal note, that we'll see additional dollars coming into the cash fund. Again, I will happily, as an Appropriations Committee member, divert those to the property tax relief fund. Additionally, when I was talking with law enforcement about this bill early on, there was some discussion

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

Floor Debate  
May 15, 2019

---

about additional dollars going to support counties mental health programs, which those dollars then would reduce the local effort in supporting what is a growing mental health crisis. I did want to correct-- I believe it may have been Senator Slama discussed the NAS document and referenced. Just want to correct the record. The NAS reference is moderate evidence of a statistical association between cannabis and a small increased risk of development of depressive disorder and it found no evidence to support or refute a statistical association between cannabis use changes the course or symptoms of depressive disorders. And again, I just-- I want to put us all back in reality here. We are not living in a world where people in Nebraska are not currently consuming cannabis. We're not living in that world. In fact, I think every single one of you in this body, and every single person who is listening right now, has a friend who is. What I'm concerned about is the veterans, or the cancer patient, who comes to my office and is self-medicating using something they bought illicitly off of the street where you don't know what the quality is of that, or they've driven to Colorado and they're coming back, they're risking potentially their-- a criminal record. And they're using recreational cannabis and they're not consulting with the doctor.

FOLEY: One minute.

WISHART: Why wouldn't we want a system-- a public health system where people who are sick can come out of the dark and be able to interface with the doctor and maybe that doctor will say, this isn't the right decision for you, or maybe that doctor will say, this is going to help you. Thank you.

FOLEY: Thank you, Senator Wishart. Senator Morfeld, I wasn't clear regarding your intentions on this motion.

MORFELD: Wish to withdraw it. Thank you, Mr. President.

FOLEY: Motion is withdrawn. Continuing discussion. Senator Bostelman.

BOSTELMAN: Thank you, Mr. President. A few studies here I want to talk about since we've been talking about those here tonight. Research on individual users consistently shows that

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

Floor Debate  
May 15, 2019

---

marijuana use leads to other drug use. A paper, January 2018, in the American Journal of Psychiatry showed the people who used cannabis in 2001 were almost three times as likely to use opioids three years later even after adjusting to other potential-- for other potential risk. National Academy of Medicine found 2017 that cannabis use is likely to increase risk of developing schizophrenia and other psychosis. The higher the use, the greater the risk. Peer reviewed research in top medical journals shows that marijuana can cause or worsen severe mental illness, especially psychosis. Teenagers who smoke marijuana regularly are about three times as likely to develop schizophrenia and most devastating psychotic disorder. In studies conducted in the Netherlands and Australia, on identical twins, one of which used marijuana while the other didn't. The twin who used marijuana was several times more likely develop an opioid addiction. A large four-year study on patients with chronic pain in Australia showed cannabis use was associated with greater pain over time. National Academy of Science panel findings on common arguments of cannabis use, diminished nausea for chemotherapy, no good quality randomized trials investigating this opinion. Good for epilepsy, insufficient evidence. Tourette's syndrome, limited evidence. ALS, Huntington's, Parkinson's, insufficient evidence. Irritable bowel syndrome, insufficient evidence. Dementia and glaucoma, probably not, and depression, probably not. And with that, I yield the rest of my time to Senator Hilgers.

FOLEY: Thank you, Senator Bostelman. Senator Hilgers, 3:00.

HILGERS: Thank you, Mr. President. Thank you, Senator Bostelman. I appreciate the back and forth with my friend, Senator Morfeld. I did want to respond to a few of his points. The first one of which is that he said, or at least stated, that Gonzales was-- I took it out of context or is that a-- somehow distinguishable. I didn't quite follow the rationale or the logic there. It was pretty clear that the Supreme Court in that case found that the CSA was a lawful exercise of the interstate Commerce Clause powers that conflicted with the state law and regulation of marijuana. And I'll just read the quote from the syllabus. Given the enforcement difficulties in distinguishing between marijuana cultivated locally and marijuana grown elsewhere, and concerns about diversion into illicit channels, the court had no difficulty concluding that Congress had a rational basis for believing that the failure to regulate the interstate manufacture and possession of marijuana would leave a gaping hole in the CSA. A gaping hole in the CSA. That is common sense, colleagues. If you were to strike out marijuana and say, well, let's let

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

Floor Debate  
May 15, 2019

---

medicinal use of cocaine. It would be readily apparent that that Schedule I drug authorized in Nebraska would be absolutely in conflict with the closed regulatory system of the CSA. Now, Senator Morfeld repeated a point that I talked about before, which is, well, wait a second, there's 32 states. There's never been a lawsuit. There's never been a shut-- any attempt to shut these down. The reason why is because of the DOJ guidance in 2009 that went, by the way, until 2018 when it was rescinded by Attorney General sessions that said, we're not going to enforce these laws. That guidance, which it doesn't have the force of statute, has been rescinded. So to the extent the Department of Justice wants to move forward with their enforcement of the CSA and we pass this, and we tell Nebraskans, you can use this in conflict with the CSA, we are leading them down a path towards violation of federal law. Now the other arguments-- I will ask him about the commandeering case, my argument is not a commandeering argument so--

FOLEY: One minute.

HILGERS: --I'm happy to discuss that, but it's not the thrust of what I'm trying-- of my argument that I'm bringing. The other point was something regarding Congress in 2014 doing something with the DEA and Department of Justice. I didn't quite-- I wasn't quite sure what that precisely meant or what the argument there is. I would certainly talk to Senator Morfeld off line-- or off the mike about that particular argument as well. I think these are important issues to discuss and I appreciate Senator Morfeld dialoguing with me about this issue. But if you think there's no conflict between a closed system that prohibits the sale of a Schedule I drug and a system that says, no, you can sell it, if you think there's no conflict, that's a troubling-- that's a troubling position to take as a matter of commonsense logic and as a matter, I think is Supreme Court case law. Thank you, Mr. President.

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

ASSISTANT CLERK: Thank you, Mr. President. Senator Chambers would move to bracket the bill until June 6, 2019.

FOLEY: Senator Chambers, you're recognized to open on your motion.

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

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CHAMBERS: Thank you, Mr. President. This is my jump to the head of the line. And I'll do it whenever I choose to do it, so whoever behind me said, oh, come on. Well, I'm coming on. I'm doing it. You ought to applaud me. I would like to ask if Senator Geist would answer a question or two, a question or two.

FOLEY: Senator Geist, would you yield, please?

GEIST: Yes, I would.

CHAMBERS: Senator Geist, have you watched television and have seen advertisements for various pharmaceuticals?

GEIST: Yes, I have.

CHAMBERS: And I'm sure that you've read, and sometimes they'll even say what some of the side effects are, and with some of those drugs, there's a potential for it to be fatal. Have you heard of any of those drugs with such a warning?

GEIST: For a fatality is that what you're asking?

CHAMBERS: Yes. Yes.

GEIST: Or for just side effects?

CHAMBERS: Side effect.

GEIST: Sure.

CHAMBERS: Okay. So, there are drugs that big pharma sells, they're legal, which can lead to death and it's known. And the only reason they put it there, they could not advertise their drugs on television if they don't put the side effects, that's why they do it. Are you aware that opioids

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

Floor Debate  
May 15, 2019

---

have been manufactured by pharmaceutical companies, say Oxycodone. It's legally manufactured. Are you aware that it has been prescribed by physicians?

GEIST: Yes, in very therapeutic doses.

CHAMBERS: Say it again.

GEIST: Yes, in very therapeutic doses.

CHAMBERS: Okay. And are you aware that the drugs are dispensed by pharmacies?

GEIST: Yes.

CHAMBERS: Thank you. And that's all-- this isn't to trick you. Senator Arch was talking about these medicines, and I call it medicine-- medical marijuana or medicinal cannabis. They're dispensed not by pharmaceutical-- I meant, by pharmacies, but these opioids are and they're prescribed by doctors. The big pharmaceuticals are the ones who are most opposed to medicinal cannabis because they were selling crack drugs that were supposed to counteract seizures. They knew what medical cannabis would do, and all of those drugs would be rendered nugatory. Big pharma is now testing, and at least one of them has produced something that is supposed to rival medicinal cannabis. But it has not been shown to be as effective. There is money in everything that the FDA says. Senator Arch knows that the FDA makes political decisions. He knows that politically appointed individuals have overruled the suggestions by people who are medically trained because big pharma did not want those kind of rulings. I don't know who Senator Arch works for, but he sounds like he works for those groups that are opposed to challenging big pharma in any way. When there are families whose children have had these medicines administered to them and the number of seizures diminished dramatically, I would take that over anything that these people, even Senator Arch will say about there not having been tests-- not having been researched. This is the best kind of research you can have when in actual practice it is doing what it's supposed to do, or what is alleged that it will do. When Senator Slama talks about all this stuff that she talks-- and it's stuff. She's talking about marijuana that you smoke. You don't smoke this. She talked about how if young people smoke it it's going to eventually do

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

Floor Debate  
May 15, 2019

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this and that to them. We're not talking about recreational marijuana. We're talking about medicinal cannabis and they're different. I'm glad to know from my colleagues here that cigarettes no longer cause cancer. That they no longer kill tens of thousands of people every year because if tobacco did that, Senator Geist would be one of the first ones to say, we should ban the sale of tobacco in Omaha, Lincoln, and, in fact, the whole state because our young people are smoking and running the risk of getting cancer and dying. So now we know that tobacco smoking does not cause cancer. We know that chewing tobacco does not cause cancer of the mouth. And now, there is no need to regulate it in any kind of way. It's just something that people enjoy doing. We know that alcohol does not cause cirrhosis of the liver. No bad side effects. But these hypocrites know what I'm saying. It's stated in sarcasm. They wouldn't dare stand up to the tobacco industry. They wouldn't dare stand up to the liquor industry. We heard the argument today about a squabble between wine dispensers and hard liquor and these-- whatever they were talking about, but none of it went to trying to restrict the sale of alcohol. They wanted to increase the market, sell more of it, despite the harm that it causes. Not just to the individual, but the spousal abuse, and it goes both ways, male against female, female against male, male against male, female against female, but they won't do anything about liquor. In fact, churches dispense wine, alcohol, as a part of their religious service. Where is this hypocrisy going to end? Never. There's too much money in it. What those of us who support medicinal cannabis are trying to do is to make available legally in Nebraska, what is legal in other states. There are places people can travel from Nebraska to obtain this medicine. There are people who can travel to those places and bring the medicine to Nebraska. Some people pretend that they love children. No, they love fetuses. They love zygotes, but they don't love children. If it can be demonstrated that a medicine will help fully developed children, they say no, no. But if there's something that might terminate a pregnancy, well, that's a fetus, you can't do that, we love fetuses. Look what that Governor down in Alabama did. Signed a bill that would ban all abortions and give a doctor 99-years in prison if he or she is found to have performed one in violation of that barbaric law, because men hate women, and they hate women because they fear women. And there are women who are so silly that they go along with what these men are doing to women. What natural function of a man is declared by the Bible to render him unclean? Only women are considered and labeled unclean when they're on their period. Unclean is what the Bible says and men wrote it. And some of these silly women are going along with it, and it is silly because they have daughters who are



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

Floor Debate  
May 15, 2019

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going to be reared to think that they are unclean because some men who want to abuse and take advantage of them in the first place say so.

FOLEY: One minute.

CHAMBERS: There are orders of nuns whose function was to sexually serve priest from the Archbishop on down, and all of that has been established on the record now. Nuns, their order was for that purpose, sex. And these hypocritical priests are the ones saying, you can't get an abortion, but there were nuns who got abortions because some got pregnant. And they had doctors who were Catholics who performed the abortions. That's the kind of hypocrisy we're dealing with and we'll continue to have to deal with it. I will withdraw that motion, Mr. President.

FOLEY: Thank you, Senator Chambers. The bracket motion is withdrawn. Senator Brewer.

BREWER: Thank you, Mr. President, and thank you, Senator Chambers for that lead in. The issue I guess I want to talk about tonight is, first off, I wanted to thank you Senator Wishart because Senator Chambers has a nickname for her. Help me out, Senator Chambers-- "Wiseheart". I'd probably call her more like "big heart" because she does have a huge heart and I think she's trying to help. And her original bill, we had a chance to talk through it. Every issue that I had, they came back and worked with me to try and modify it. And for that, I will always respect. There are some on the floor, I think, that truly try and find a way to resolve things and try and work with others to come up with a good solution. And I will commend you for that because I think you have really given this your best effort. What I'd like to do is talk a little about the V.A. piece of that just so everybody is on the same sheet of music because I think there are veterans out there that need help. And figuring out what that looks like is part of what we need to do here. Well, with that said, I think there are certain cautious we have to have. Trust me, I would love to figure out a way to help with pain. On the 6th day of June, I will be going in for my 39th surgery and I'm not excited about it, but I got to do something so that you can have some quality of life. So understand that when we talk the V.A. issue, my concern is giving them the false impression that we're going to do something that will keep them from getting in a position that will negatively impact their lives and some of that is that the V.A. is the federal government. And

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

Floor Debate  
May 15, 2019

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so right now, as long as it's a Schedule I, if you should be on V.A. property, you would be in violation of federal law. And with that comes certain consequences that are not going to be very positive for them. When you are taking narcotics, there is an agreement that you have to have and sign with the V.A. And with that also comes the requirement for urinalysis and other things. And so making sure that they understand what they can and can't do will be a critical part of whatever we come to as far as an agreement so that we help them, we don't hurt them. The other part of that that we need to be careful of is that they understand that certain things, and Senator Wishart and I have talked about this, we won't be able to affect for them because of federal law on, say, one of the issues we addressed was-- it was their Second Amendment privileges. If they want to have a concealed carry, they're not going to be able to do that. If they want to purchase a firearm, the ATF rules would restrict them from that, and they need to know that up front and maybe that's okay. Maybe that's not something they need to do but that's just part of this sequence of things that we have to work through. Now, the other thing that I try and compare this to is, is if you look at a willow tree, that, by itself, is not medicine. But if you take the white compound from it, it becomes aspirin and it does become a useful medicine. And I would like to think that there's a way to find that with the medical marijuana too, where we take the good stuff out of it and that you're not going to use the plant as the reason why you're not going to agree to this.

FOLEY: One minute.

BREWER: And so, you know, as I look through this I just think there are certain things that we need to understand so that we help, not hurt, and, Senator Wishart, your attempt to try and help figure this out is commendable. I really respect you, and maybe there is that place that we can get to that will do what we need it to do and help with some of the concerns. Now, the issue of the ballot initiative. I guess the only thing I'll say with that is we need to remember that probably is going to become a reality depending on what happens here. But with that said, I think we also need to remember that the ballot initiative might also be the other side with property tax because at the point the people feel that there is just no options out there and that, that is their only option, that's going to be on the ballot and it may give us a very difficult decision.

FOLEY: Time, Senator.

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

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BREWER: Thank you, Mr. President.

FOLEY: Than you, Senator Brewer. Senator La Grone.

LA GRONE: Thank you, Mr. President. I want to dive back into the Gonzales v. Raich decision. I know Senator Morfeld said it was out of context because the plaintiff in that case was a patient and he felt that was different than what we're dealing with here. But I disagree because it does not change the central holding of the Gonzales decision. And so just to-- I'll just read exactly what the question at issue in Gonzales was. It was whether the power vested in Congress by Article I, Section 8 of the Constitution to make all laws which shall be necessary and proper for carrying into the execution its authority to regulate commerce, or nations, and among the several states includes the power to prohibit local cultivation and use of marijuana in compliance with state law. That is the question that was decided in Raich. And they-- what they analyzed was that the federal commerce power, the federal government's ability to regulate commerce was stronger than a state's general welfare power and does not change their central holding. And that is also very clear. And I'll just, again quote from the decision. The case comes down to the claim that a locally cultivated product that is used domestically rather than sold on the open market is not subject to federal regulation. Wickard v. Filburn, which is a case I'll get to in a second, forecloses that claim, meaning decisively the federal laws do apply to state actions in this area. Now Wickard v. Filburn is a very old case that essentially said the federal government had the authority to regulate wheat production for private use. And it did that because it gets-- it deals, it impacts how much demand there is in the interstate market. And so, therefore, it touches on the federal government's Commerce Clause, power, and they have the authority to regulate it. Because that authority is valid, it preempts the state laws in that same area. Would Senator Friesen yield to a question.

FOLEY: Senator Friesen, would you yield, please?

FRIESEN: Yes, I would.

LA GRONE: Senator Friesen, does the federal government have the authority-- oh, first of all, do you grow soybeans?

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

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FRIESEN: Yes, I do.

LA GRONE: Does the federal government have the authority to regulate some aspects of soybean production?

FRIESEN: Yes.

LA GRONE: Are those regulations expensive?

FRIESEN: Yes.

LA GRONE: Thank you, Senator Friesen. The federal government's ability to regulate soybeans, or wheat, or any crop, is the same authority at issue here, and that is, as they go into in the *Gonzales v. Raich* decision, its ability to regulate commerce as it relates to that product. And the decision is directly on point in that. It says Congress absolutely has the authority to regulate the commerce of marijuana and it has banned its distribution, possession, and cultivation which circumvents state laws in those areas, which includes what LB110 would be. And just to make clear exactly where the federal government stands on this, I'll quote from the Attorney General's memorandum that Senator Hilgers mentioned, January 4, 2018. In the Controlled Substances Act, Congress is generally prohibited the cultivation, distribution and possession of marijuana. And has established significant penalties for the crimes. These activities may also serve as the basis for prosecution of other crimes such as those prohibited by money laundering statutes and money transfer statute in the Bank Secrecy Act. In states that do have these laws, it does raise a number of other issues. How does it relate to the banking system since their laws on point in federal banking system where it can't be intermingled with money that is used-- or made in this area. And again, that falls under the federal government's commerce power.

FOLEY: One minute.

LA GRONE: *Gonzales v. Raich* is directly on point because it answers the question of whether the federal government has the authority to regulate this product. The answer is absolutely yes, and because the answer is yes, states have no authority to do so because of the Supremacy

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

Floor Debate  
May 15, 2019

---

Clause. So I just wanted to clear that up and point out that although there are-- there might be factual differences between the specific issue, at issue in Raich and what LB110 deals with, the central holding still directly applies. Thank you, Mr. President.

FOLEY: Thank you, Senator La Grone. Senator Walz.

WALZ: Thank you, Mr. President. I stand in total support of LB110 and I also want to thank Senator Wishart, my seatmate, for doing such a great job putting this all together. You know, I also want to say thank you to Senator Brewer because I really appreciate the fact that he is at least listening and he is at least trying to come to some compromise and answers. So, thank you, Senator Brewer for being open and having an open mind. I know that a lot of you know that right out of high school I went to work with Encore, which is an agency that serves people with developmental disabilities, and I, at age 18, handed out some pretty potent medications to the people who were receiving services. Medications like Depakote, Phenobarbital, Diazepam, Prazepam, Dilantin, and those medications had some pretty major side effects. Tiredness, loss of balance, changes in behavior, vomiting, double vision, anxiety, aggression, anger, paranoia, psychotic disorder. Regardless, it was something that I handed out and as a care provider, I always, always was concerned about the side effects that medication had that was being prescribed. And speaking of side effects, you know, I think about some of the commercials I hear on TV. Viagra, for instance, there's 30 seconds of side effects given at that commercial. Symbicort, treating COPD. Side effects including immediate-- immediate hypersensitivity. Reactions may occur. Paradoxical, bronchial spasm may occur. Excessive bate of stimulation has been associated with central nervous system in cardiovascular effects. May result in a decrease in bone mineral density. A reduction in growth velocity. Convulsive disorders. Diabetes. Hypoglycemia. Headaches. Upper respiratory track infection. The list of side effects goes on and on and on. I wanted to talk a little bit about a story that-- or give you a story that was talked about in the testimony for LB110, and this is testimony that comes from Crista Eggers during the hearing for LB110. My name is Crista Eggers. I'm here on behalf of my husband, family, other suffering Nebraskans, and most importantly, my four-year-old son, Colton. Colton was diagnosed with severe intractable epilepsy just after he turned two. This diagnosis was difficulty because I too have epilepsy that causes uncontrollable seizures despite every medication treatment and surgical option available. The pain of now watching my child go through this is

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

almost unbearable. Colton has several types of seizures, the most serious of which are tonic-clonic or grand mal. His body stiffens and convulses. His eyes roll back. His lips and face turn blue. I would describe it as one of the most terrifying things you will ever see. And I don't know if you have ever seen somebody having a grand mal seizure, but it is terrifying. Colton has been on ten medications, all of which have failed to do anything except cause a long list of side effects. He has two life-threatening allergic reactions and sometimes I do not know what is worse, the seizures or the fact that these medications-- these medications are stealing my child from me. I feel a common misconception is that these medications approved by the FDA are safe and without risk.

FOLEY: One minute.

WALZ: However in Colton's short life, we have given him medications that studies done by the FDA show that cause-- show cause liver failure, stroke, suicidal behavior, and most recently a drug which is shown to deteriorate brain development in rats. Those of you who are parents will understand this when I say, I will go to the ends of the earth for my child. There's nothing I will not do. However, why should I be forced to choose between saving my child's life and persecution? Detach yourselves from the stigma that marijuana is solely to get high. Please understand that this is not at all what we are talking about. In no way, am I advocating for recreational legalization. I am, however, supportive of something that could change the lives of people who suffer from debilitating illness and pain. There is so much concern about its safety and effectiveness, or the possibility that there could be unknown risks in the future. This is ludicrous because without it, many people will not have a future.

FOLEY: Time, Senator.

WALZ: Thank you, Mr. President.

FOLEY: Thank you, Senator Walz. Senator Ben Hansen.

B. HANSEN: Yeah, thank you, Mr. President. I just have a couple of questions for Senator Wishart if she would yield to a question, please.

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

FOLEY: Senator Wishart, will you yield, please?

WISHART: Yes, absolutely.

B. HANSEN: Thank you. And I do actually want to kind of echo some of Senator Brewer's comments about the hard work you put into this, and the heart that you put into it as well. I appreciate that. I just have a couple of questions, maybe more about the conditions that it can be used for. And again, this is kind of, almost for my own curiosity maybe to kind of specify just a couple things. When it says, spinal cord injury or disease with residual and neurological defects, I don't know if spinal cord injuries in statute are exactly what that kind of means. Maybe just being a chiropractor, spinal cord injuries sometimes can mean just low back pain, or it can mean debilitating spinal cord injuries such as, you know, paraplegic or something else. I just didn't know for sure if you know exactly maybe more specifics about that terminology.

WISHART: Yes, so this was language-- I sat down with the NMA, the Nebraska Medical Association. We went through each one of these and with spinal cord injury or a disease with residual neurological deficits, we're talking about people who maybe were in a really intense car accident, somebody who has neurological degenerative disease that would benefit from the pain reduction from this. But I'd be happy to work with you if there is something else from your medical thoughts that would better fit within that.

B. HANSEN: Okay. I appreciate that. And maybe some more clarification on kind of more of the dispensing of marijuana. I've read through the whole bill and I'm trying to get just a little better grasp on how we get from the person growing the marijuana to the patient receiving it. Like I know the pharmacists are able to dispense this in a pharmacy, or no?

WISHART: No.

B. HANSEN: Okay. So where does the patient get it from?

WISHART: Yeah, so they're-- we allow for licenses-- a set amount of licensed dispensaries in the state, ten per congressional district with the option of counties to opt out. But we do also-- we do

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

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follow what Connecticut, a model from Connecticut where we do require that the dispensary have a licensed pharmacist contracting with them that's available whenever the dispensary is open to consult with a patient.

B. HANSEN: Okay. Who dispenses the licenses? Like who-- probably not the best word, dispense, but who gives out the licenses?

WISHART: So we have a Medical Cannabis Board that oversees the department and the Medical Cannabis Board, we overhauled that board so it is now a majority of medical professionals and law enforcement and substance abuse specialists.

B. HANSEN: Okay, and the person dispensing--

WISHART: So they determine the license.

B. HANSEN: Okay. All right. And so the person goes to pick up their prescription from the dispensary, who dispenses it? I know they need some-- I was looking through some of the continuing education that I think they need, because I think they're maybe listed as a pharmacist in the bill. I think maybe that's what confused me.

WISHART: Yes, so we require a-- again, we require dispensary to contract with the licensed pharmacist and we require continuing medical education. And then it would be a staff member who would be working with a person and that pharmacist in terms of dispensing the medication.

B. HANSEN: Okay. And so the person dispensing the medication, do they need any kind of certification or--

FOLEY: One minute.

B. HANSEN: --such as like a pharmacy tech. Do they need some kind of certification or, you know, any kind of requirement to dispense it?



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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

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WISHART: At this point, no. We went with requiring a licensed pharmacist on contract because if we thought rural access might be an issue, but I would, again, be happy to work with you on additional training for staff.

B. HANSEN: Okay. I think it's a little of my concern because then if we're just hiring somebody-- you know, we put an ad in the newspaper, can somebody-- we hire just to dispense marijuana, that's a little bit of a concern I think on my end with how this is done. But I appreciate your answering some of my questions. Thank you.

WISHART: Thank you.

FOLEY: Thank you, Senator Hansen and Senator Wishart. Senator Howard.

HOWARD: Thank you, Mr. President. Good evening, colleagues. I'm going to talk about my sister, Carrie, a little bit in relation to opioids, but before I get started I just want to acknowledge that there are a lot of families who are watching who have kids who have epilepsy, who have seizures, who have-- who understand from their providers that the best thing that would help them would be medical marijuana. And I know that they are watching this, and I want to make sure that they know that there are members of this body who hear them, who understand the stories of their family, and are really working hard to make sure that your kids get the care that they need. Even if we are not successful tonight, I know that Senator Wishart will keep working on this. I am-- a couple of years ago in this body, I was sitting down to a meeting in my office and I had a seizure. And I don't remember it. I have no memory of it. I was taken out of the Capitol on a stretcher. I woke up when I was outside of the Capitol. I was taken to Bryan, and then was sent home. And so I missed work the next day. And that night I was sitting on the couch with my husband, Doug, and I had a second one, and I don't remember it. And so I went to the hospital. I was in the hospital overnight. Don't remember much of that. And then they put me on a drug that essentially sort of slowed down the neurons from firing in my brain, so that I wouldn't have another seizure. They didn't know why I had had it. And so, I remember coming to work that Monday and I had a bill up. And another colleague started asking me questions, and because the medication had sort of flowed down the neurons in my brain, somebody would ask if I would yield, and then I would say yes. Like I would wait a while because everything had

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

slowed down for me. And I was not a fan of that medication. If I had known that medical marijuana could have helped me so that I could have been assured that my seizures would have been addressed, and then I could have been assured that I could continue working at sort of the high level that I consider myself to be working at today, that would have been something that my family and I would have considered. And so, I do think about the families who are trying to fight for their kids who have seizures if this is the best course of action for their kids. So most of you know my sister, Carrie, passed away ten years ago from an opioid overdose. She had been sick. She had been in a series of car accidents. She had back pain. And the minute that she met OxyContin, it was-- she wasn't there anymore. And I'm getting better and better about telling the story and not starting to cry about it. The thing that I've learned since we lost her is that opioids essentially change your brain chemistry. It's as if there is-- if you think of your brain like a series of legos, and opioids essentially take the lego and say the only thing that will fit with this lego is an opioid. The only thing that will make you able to function in the world is an opioid. And so opioids essentially change your brain chemistry. You take an opioid and your body thinks that you need it to get up in the morning, regardless of whether or not you have pain anymore. Because you can't feel pain when you are on opioid. Marijuana is completely different. Marijuana essentially flushes out of your system. It doesn't change your brain chemistry. And after you have had water, it will flush right out of your system. Opioids, on the other hand, have a very long-lasting impact on the way that your brain functions. And so these two are not comparable. When I talk about my sister's chronic pain and she had chronic back pain--

FOLEY: One minute.

HOWARD: --when I talk about her chronic back pain, I often say, I wish she had been able to access medical marijuana because I do believe that she never would have gotten addicted to it. We have no evidence that anyone has ever overdosed on medical marijuana. On the other hand, we have so many people in this country who are dying of opioid overdoses. And so I know my colleagues have been making the comparison between opioids and marijuana and gateway drugs and that sort of thing, as somebody who has experienced an opioid overdose personally, those comparisons in my view are absolutely inappropriate for this discussion. Opioids are highly dangerous. They are highly addictive. Marijuana is not. And not in the same way and certainly

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

---

not medical marijuana, which would be highly regulated in the state. This is a nuanced approach. I certainly support it. Thank you, Mr. President.

FOLEY: Thank you, Senator Howard. Senator Murman.

MURMAN: Thank you, Mr. President. And I, too, would like to thank Senator Wishart and Senator Morfeld and others for providing this the-- for providing us the opportunity to have this conversation, this late night conversation. And I did attend a small part of the committee hearing and that was a long one also, so I appreciate that. I know, as Senator Brewer and Senator Hansen mentioned earlier, their hearts are in the right place, and I really appreciate that, but I must stand up against this bill and also against the amendments. As Senator Geist has already said, there is no other medical drug that is approved by a citizen legislature without testing by a medical professional-- excuse me, professionals and approving the drug on the federal level. There are dangers pointed out by many studies that I have seen, and it's because of these dangers that I must be against this bill. National Academy of Medicine, the nonprofit group that advises the federal government on health and medicine, released a report in 2017 that shows cannabis use is likely to increase the risk of schizophrenia and other psychosis. They also report that the higher the use is, the greater the risk is. And I've seen other studies also, and that seems to be a pattern. Schizophrenia and psychosis are very closely tied in with the marijuana use. I'm also concerned that there's no limit on the level of THC in these bills, in this bill. Marijuana that sold at legal dispensaries often contains between 25 and 99 percent THC, the psychoactive compound in marijuana. This is a change from what we might, some of us at least might remember in the 1970s when marijuana generally contained less than 5 percent THC. Without going through the usual channels of testing, approving, dispensing, and prescribing of marijuana, we are on a slippery slope to recreational marijuana. I, too, like Senator Lowe have relatives and friends in the Denver area. They tell me, don't legalize marijuana in Nebraska. They talk of increased violence and emergency room visits in the Denver area because of the legalization of marijuana. And with that, I would give the rest of my time to Senator Slama.

FOLEY: Thank you, Senator Murman. Senator Slama, 2:00.

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

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SLAMA: Thank you, Mr. President, and thank you, Senator Murman. I just like to follow up a bit on Senator Hansen's line of questioning a bit earlier and raise a concern that I have with the bill as drafted. So the amendment reads, each dispensary shall contract with or employ at least one pharmacist who is licensed under the Pharmacy Practice Act and who has completed at least 15 hours of continuing education course material on the medical use of cannabis which has been approved by the Medical Cannabis Board. The pharmacist shall be available to patients and dispensary staff in person or by telemedicine during business hours to advise and educate patients and to consult about appropriate dosing. Okay. So the pharmacist, the licensed pharmacist, does not have to be on site at these dispensaries. And the pharmacist only needs to complete about 15 hours of continuing education to be able to dispense marijuana. Mind you, it's not a prescription. It is a recommendation from the doctor, it's not a prescription. But the dispensary staff to the people within the dispensary and on the ground, the people who will be the ones handing off the medical marijuana only need to complete four hours of training. On my [INAUDIBLE], CNAs need to complete 75 hours of training and they can't dispense medicine. Why is it only four hours of training to be the ones dispensing the medicinal cannabis? For the rest of my time on the mike tonight, I would like to reference a New Yorker article that I recommend you all look up. Is marijuana as safe as we think? Permitting pot is one thing.

FOLEY: Time, Senator.

SLAMA: Promoting its use is another. Thank you, Mr. President.

FOLEY: Thank you, Senator Slama. Senator Vargas.

VARGAS: Thank you very much. It has been a lot that we have talked about tonight, so I'm going to try not to rehash certain things, but I find it-- I'll say it's interesting. I think one of the pieces of feedback I'm hearing as a reason why that this is concerning, that we shouldn't go down this route has a lot to do with whether or not it's safe. And I think that's a fair question. And it's not always the question we ask ourselves for every single piece of legislation that's healthcare related, it is a good question for us to ask. But I think a more common question we ask ourselves is, is this something that we as Nebraskans and we as policymakers, that we feel like it's the best way to go about the regulating or creating a policy to then push something forward? There's

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

Floor Debate  
May 15, 2019

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always going to be a debate on something being whether or not we should move forward or not, but I am encouraged that-- I am always encouraged when we see that as states that we are laboratories of innovation. And if 33 states with legislators both Democrats, Republicans, Independents, nonpartisans, have found some way-- and actually 34 --have found some way to move forward to regulate this and make sure that there is some cannabis medical marijuana programs, I ask myself then, why haven't we? It's honestly just been in my head, I'm like, so why haven't we? So it must be because-- not because it's not possible, not because there's medical professionals don't believe it could help alleviate chronic pain, but that we are actively choosing that it's not best for Nebraskans as representatives and that conversation is okay. I have heard some of that. We received some e-mails saying that it's not good, but for every e-mail we're hearing that maybe it's not good, I think we're also hearing e-mails from individuals saying I want the option and the choice to be able to have this because I want to find another way to deal with chronic pain, and many other things we've talked about. So I kind of want to put that out there because if the conversation is, we don't have enough resources to show that this is the right, safe thing to do, then 33 other states are somehow doing something that's not safe. I don't think that's what we're seeing or what we're hearing. I don't think that's the rational or the conclusion that we can easily come to. And instead, we should try to figure out what information did those legislators have that was inherently different or at least in the policy that led them to come to a different conclusion? That they were able to move something forward. Because I think that we apply that same logic to pretty much every single piece of legislation that we encounter here. We apply it to-- we're applying it to right now. I know there are individuals that are trying to figure out what we potentially can do on property tax relief. Other states have figured out other ways to do it. We've applied that logic to a lot of big debates we've had this year. So I just want to say that because I think we're asking ourselves some of the wrong questions on whether or not this is something we can do and we're looking at case studies and anyway, I want to say that. The other thing I'm going to say maybe really hasn't been said. We have an older, aging population. That aging population, there is a lot of research specifically looking at the perceptions of the older population and the amount of chronic pain that we're seeing in the older population are baby boomers. I think there is a-- I have a concern that if we're not going down a route of preparing for this, that we can have a population that is seeing--

FOLEY: One minute.

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

Floor Debate  
May 15, 2019

---

VARGAS: --that is seeing that medical marijuana is something that's happening in other states and they may begin to use it and we have the opportunity to figure out how to regulate it in an appropriate way when we have a growing, aging population that has more chronic pain. And that is just the reality of the demographics that we're seeing in the state of Nebraska. I'm not talking about qualitative stories on good or bad. We do have a population that is trying to find alternatives to chronic pain, and as we heard from Senator Howard, there are alternatives, but those alternatives are much more inherently dangerous, and we've been trying to do everything we can to safeguard those on the back end. I think we should be doing the same in this instance as well by making it-- by regulating it and making sure that we are monitoring it. So, colleagues, I stand here in support of it, this bill, and the work that Senator Wishart has done because every time I see states that have figured out how to do it, I ask myself, why haven't we figured out how to do it and then I start to look at the demographics and I realize--

FOLEY: Time, Senator.

VARGAS: --that there's a pathway forward for us. Thank you very much.

FOLEY: Thank you, Senator Vargas. Senator Halloran.

HALLORAN: Thank you, Mr. President. Good evening, colleagues. I think that was-- was it two years ago that I was in Judiciary and you, Senator Wishart, had this bill in front of Judiciary. And I have to say, you didn't just copy and paste it. Okay. You have done a lot of work on this bill. But I would ask you to yield for a question.

FOLEY: Senator Wishart, will you yield, please?

WISHART: Yes, I will.

HALLORAN: Thank you, Senator Wishart. So I see in the bill that the laboratories would be required to do some testing, correct?

WISHART: Yes.

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Transcriber's Office  
Rough Draft

Floor Debate  
May 15, 2019

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HALLORAN: And I assume that's the testing to determine the THC level?

WISHART: Testing to determine THC level, but also testing to determine pesticides, molds, make sure that it's a quality product.

HALLORAN: Okay. Thank you. So the reason they want to test the THC level is because, I would assume, that maybe doctors might recommend different levels of THC?

WISHART: Well, unfortunately, with the way that this works, they would need to be working with the dispensary and the pharmacist in terms of the level of THC. Doctors would be able to recommend cannabis. It would be with the pharmacist at the dispensary that they would be discussing the level.

HALLORAN: Oh, I see. So the training for these dispensary, quote, unquote, pharmacists is how much training is required?

WISHART: So for-- there's continued education for pharmacists, and then there is some training. I am happy to work with you and Senator Slama and Senator Hansen to increase those hours to a level where you feel comfortable.

HALLORAN: See, that's my concern. Thank you, Senator.

WISHART: Yes.

HALLORAN: That's my concern. We have issues such as Lyme's disease, glaucoma, back pain, and we expect the dispensary pharmacist, if you want to call them-- let's call them that --to be able to reference a level of THC to satisfy the particular ailment that I have. Would Senator Wishart yield to another question?

FOLEY: Senator Wishart?

WISHART: Yes, I will.

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

Floor Debate  
May 15, 2019

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HALLORAN: So I assume there's going to be a referencing guide for these dispensaries on the various ailments? In other words, the dosage amount? The amount of THC?

WISHART: Yes, so the CMEs that we require for the pharmacist are going to be around dosing, substance abuse, same with doctors. And again with the Medical Cannabis Board, which is medical professionals, we require them to put together those CMEs.

HALLORAN: So again, what is the background for those reference guides that they're going to use? Everybody is going to have a different level of pain. Different level of glaucoma. How are they-- what history of a reference guide are they going to use?

WISHART: Well, first of all, if you look on-line and go to New York, for example, there are brilliant CMEs in terms of dosage and different kind of medical conditions that doctors can use. And then I would say for any medicine right now, first of all, you can off-label prescribe for something that isn't even FDA approved for that condition. Doctors can do that now. And secondly, for any kind of medicine, people figure out dosing. It is not like you come in and automatically that amount of medicine works for every single patient.

HALLORAN: I understand. Thank you. So I'm holding in my hands a bottle of baby aspirin. Senator Brewer stole my thunder on that, but baby aspirin comes from the willow tree's--

FOLEY: One minute.

HALLORAN: --root. It's been around for 2400-plus years. Fairly simple remedy. Fairly simple remedy. But there's various dosages, right? This happens to be a baby aspirin, 81 milligram. And there's in small print various other circumstances that they recommend that you don't take baby aspirin under those circumstances. You can overdose on baby aspirin. You can bleed to death, even hemorrhage. I'm not saying that's going to happen with THC, but you can overdose on THC, I'm sorry. You can have too much of anything. You can die from drinking too much water. You can. It's not drowning. It's consuming too much water. Anyway, my concern is that there's really no-- there's no history of reference guide--



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Rough Draft

Floor Debate  
May 15, 2019

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FOLEY: That's time, Senator.

HALLORAN: Thank you.

FOLEY: Thank you, Senator Halloran and Senator Wishart. Senator Friesen.

FRIESEN: Thank you, Mr. President. I guess I rise in opposition to LB110. I do admit that Senator Wishart, in my five years here, had the best written bill that I've seen so far, by far. So she has put a lot of work into it. As long as marijuana, whatever you want to call it, cannabis is going to be a Schedule I drug, I cannot ignore federal law and just say that I will do as we please here. The other concern I have is, this body in all of its existence that I know of, and I did ask Senator Chambers earlier, has never approved a drug or a product that you could put in your child's mouth. I'm not qualified to make those decisions. So I have real problems with that. The bill is well-written. I have no problems with that. You have done a great job. There's just places I can't go. So, thank you very much and I'll yield the rest of my time to Senator Wishart.

FOLEY: Thank you, Senator Friesen. Senator Wishart, 3:50.

WISHART: Thank you, Mr. President, and thank you, Senator Friesen for the compliment. I did want to pick up a little bit on what Senator Halloran was talking about with dosage. Look, I recognize we're in a tough situation. The federal government has been completely inoperable on this issue and so they've left states needing to deal with this to help people. What I can say is that medical cannabis has been legalized in states for many years now. If you go on-line, there are plenty of resources that have been researched by doctors who are now becoming experts in cannabis that can be used for CMEs for doctors here and pharmacists here. And so I'm not concerned about the ability for us to get people trained up to the level they need to be. I'm happy to work with my colleagues, as I have been with any other person who has come to me, with ways that we can make the bill better. I'm happy to work with them between now and whether this bill gets back up again. We've had some really good discussion tonight and I appreciate my colleagues who have really dived into the bill and talked to me about some of their concerns, some of the ways we can improve this bill. But I have to say, I have heard a lot of cherry-picking of facts tonight. A significant amount of cherry-picking of facts which concerns me because we

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Floor Debate  
May 15, 2019

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should be doing research and utilizing research that is factually based. And we should not be using research and talking about it as if it's causation when we're actually what we're talking about is correlation. The other thing I've heard a lot tonight is excuses. And I am not somebody-- I did not sign up to be part of a Legislature where we say no to bringing access to people who are in need when we have the ability, clearly we do, 32 other states have done it, to effect change. I'd also sum this up, which I'm quite surprised in some of the senators that I have heard in opposition to this, alluding to the federal government. They are not-- they are senators that I was excited to work with on issues around personal sovereignty, liberty, states rights, limited government. I happen to be one of the Democrats that kind of ends up following a lot of the ways in a really free market kind of space. I think you'll see that, it proves out with the legislation that I tend to introduce. I mean, the story tonight from those who are opposed, again, I'm surprised. It's a lot of big, sort of pharma with the FDA in a completely broken system, and big government. Choosing that over the liberty of Nebraskans to access to their healthcare. That's surprising to me--

FOLEY: One minute.

WISHART: --and disappointing. If you look out into the Rotunda, you would see a young man named Will. His family has fought on this for five years. He has severe epilepsy, so much so that he almost died on the way back with his mom from the hearing because he had a seizure that put him into an emergency state. So here he is with his family here. They don't have the luxury of leaving the state. And I have other families who have been split apart that I've heard from. We had a doctor testify where she is split up from her grandson because he had so many seizures that his mom, her daughter, had to take him to another state where cannabis is legal.

FOLEY: Time, Senator.

WISHART: And now he's reduced his seizures almost entirely.

FOLEY: That's time.

WISHART: Thank you.

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FOLEY: Thank you, Senator Wishart. Speaker Scheer.

SCHEER: Thank you, Mr. President. We've reached the allotted time for the first part of this bill, and we will move on in the agenda. We will go ahead and adjourn and pick up tomorrow morning.

FOLEY: Thank you, Mr. Speaker. Items for the record, please.

ASSISTANT CLERK: Just one, Mr. President. Senator Hilgers move to adjourn the body until Thursday, May 16, 2019, at 9:00 a.m.

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