

Transcript Prepared by Clerk of the Legislature Transcribers Office

Floor Debate March 19, 2024

Rough Draft

**FREDRICKSON:** Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the forty-sixth day of the One Hundred Eighth Legislature, Second Session. Our chaplain for the day is Senator Steve Erdman. Please rise.

**ERDMAN:** Please join me in prayer this morning. Father, we thank you for this opportunity to gather in this room to make decisions that are important not only to those people here, but those people back home and the people of Nebraska. We pray this morning for all those people that-- in the Clerk's Office that prepare for the day, make all those things necessary that we can function, and that we can complete our work. We just thank you for the staff that works in this building, as well, Lord. Many times, we pray for guidance for the senators. Today, I ask you to give those people who work here to make us-- help us accomplish the things we need to. And we also now want to thank you for the greatest season we're entering, in the history of the world. And that was when you came, to give your life, to shed your blood for the sins of the world, and to restore us back to a relationship with you. You came to pay a debt that you did not owe, the debt that we could not pay. We thank you for that. We thank you, that you offer that to us as a free gift. And we just pray, as we celebrate this resurrection, this Chris-- this Easter, we pray that you would help us to understand that you did that to restore us back in good standing with you. We thank you for the many blessings you have given us to live in this state and this country. We pray now that those things we do today would honor you, and you'd be glorified by the things that we do and say. In Jesus' name. Amen.

**FREDRICKSON:** I recognize Senator Kauth for the Pledge of Allegiance.

**KAUTH:** And I would like to say Happy birthday to my mom who is watching. Please join me in the Pledge. I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

**FREDRICKSON:** Thank you. I call to order the forty-sixth day of the One Hundred Eighth Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

**ASSISTANT CLERK:** I have no corrections for the Journal.

**FREDRICKSON:** Thank you. Are there any messages, reports, or announcements?

**ASSISTANT CLERK:** I have none at this time.

**FREDRICKSON:** Senator John Cavanaugh, would like to recognize Doctor Sara Hoffschneider of Omaha, who is serving as the physician of the day on behalf of the Nebraska Family of Medical Assistants. Please rise and be greeted by your Nebraska Legislature. Mr. Speaker, you are recognized for an announcement.

**ARCH:** Thank you, Mr. President. So we've all had a, a night to spend considering our last few minutes together last night, and I've thought long and hard about what I want to say this morning after last night's debate. And I ask everyone to listen carefully to all my comments, not just the ones that you initially agree with. And I don't anticipate anyone to agree with all my comments, but I'm asking everyone to actively listen, with the goal to understand your colleagues who do not share your views. At the end of my comments, I do have a big ask for all of you, and I hope everyone can carefully consider what is best for the institution. First, I want to apologize to Senator Machaela Cavanaugh, every other member of this body, but especially the female senators. I do not condone the reading of the graphic rape scene on the floor of the Legislature, nor do I condone personally directing that passage to another member or members of this Legislature, even if it is to make a point. Despite the R-rated warning, we do not know who was on the other side of the television screen watching and listening, certainly children that this bill is directed to protect, not to mention survivors of sexual assault. I know it upset members of this body, but we cannot dismiss this simply as a public forum and broadcast live across the state of Nebraska. I was off the floor when the passage was read. I was in my office preparing today's agenda, so I did not hear it personally. Had I been on the floor, I hopefully would have learned of the intent to read from that transcript, done everything to prevent that from happening. I was not able to do that. I don't want to minimize this incident, but this is not the first inappropriate incident to occur on this floor. And unfortunately, I have no hope that it will be the last. These things do happen occasionally. However, second, I want-- I, I-- we

cannot let this derail our session, nor can we collectively decide and-- simply that this was inappropriate and move on. Make no mistake, I intend to vote for LB441, but I'm separating my views on the bill from what's appropriate for debate. At the beginning of the session, I ask each of you to reset. And I believe, as a Legislature, we have. I see people working with others, trying to find compromise. Members are working their bills. The tone and tenor of debate has been different this year. We cannot allow this to define the remainder of the session, but I do want to give you my perspective on the remainder of the session. And, and that is, that is this. We have approximately 1/2 of the priority bills-- out of 103, there's approximately 54 that sit on General File. Let that sink in for a second. Half. So we are no more than half finished with moving and debating our priority bills on General File. So here's what I would ask. This is my, this is my ask. If we are serious about getting this work done and the priority bills that are in front of us, I would ask, number 1, that we do not slow walk noncontroversial bills. That has occurred this session. I've watched it happen. Some of it has to do with what's coming up on the agenda, and I get it. But, but please do not slow walk noncontroversial bills. We don't have the time to do that. We need-- if they're noncontroversial, we need to have good debate, we need to take our votes, we need to move on. We need to move the bill. Second, I would ask, please do not make everything controversial. And that is-- that goes for the proponents and the opponents of the bill. It can come, it can come from, it can come from either side. In other words, there's something in this bill that I really don't like, so take the bill down. So to both the proponents and opponents of bills, I would, I would strongly encourage you-- ask you earnestly, work on compromise. Find a way to move the bill, if that's possible. May not be. There are those bills that are not. I get it. But if it is possible, seek. Don't just count votes. That happens. Do not just count votes. Work to address opposition. And the last thing I would ask-- and, and-- is, is that we all use wisdom in our free speech. We have the right; doesn't mean we should use the right. Wisdom. That, that is that-- that's that ability to use knowledge correctly. We get a-- we gain-- we gather a lot of knowledge-- hearings, and reading, research, and conversations, and our constituents, and the lobby. We're gaining a lot of knowledge. Now, how do we use that knowledge, is, is the part of wisdom. It-- wisdom tempers free speech, especially after 6 p.m., when we're tired and it takes additional effort for that to happen. So those are my asks. Now, this morning. Some people are going to speak, and, and we're going to give others opportunity to speak. How it's going to be structured is there's going to be a couple

point of personal privilege. Senator DeBoer is going to make a motion to overrule the agenda-- the Speaker's agenda, which is not a hostile motion. It's, it's something that I think is appropriate. And then if you have a desire-- not required. If you have-- if you want to speak, then there-- that will be an opportunity for you to speak. So we want to give that opportunity, but, but don't need to belabor it. But my ask is that we don't allow last night to define the remainder of our session, that we're able to do the work, and continue the good work that we have begun at, at the beginning of this session. Thank you, Mr. President.

**FREDRICKSON:** Thank you, Speaker Arch. Senator Conrad, for what purpose do you rise?

**CONRAD:** Point of personal privilege.

**FREDRICKSON:** Please proceed.

**CONRAD:** Thank you, Mr. President. And good morning, colleagues. Mr. President, members of the body, we're responsible for what we say and do in this body. Everyone who got us to this challenging point is responsible and, and accountable. Our words and our actions and our statements matter. We are representatives of the people of Nebraska. We are not here for ourselves or our own personal vanity. We are responsible for what we do here. And I ask each of us, as we proceed with debate today, to think about how every vote out of committee got us to this point, how every vote on this floor may have gotten us to this point, how every agenda decision contributed to this moment, how every choice and word we make leading up to this point has brought us to this point, so that we can lead and move forward together. As a matter of policy, it's important to remember and to note that the Nebraska Legislature is the only deliberative body in the state of Nebraska. As elected representatives of the people, we must be free to discuss issues of importance to our constituents and to all Nebraskans, as each senator sees fit. Sometimes, debate and discussion on challenging and controversial subjects will be difficult. It will be pointed. It will be hostile. It may be offensive. It may be painful, and it may be personal. But we should not avoid contention. We should not move away from conflict. We should not avoid controversy. You don't have to be a First Amendment expert to cherish the First Amendment. It is well-grounded in our federal Constitution and our State Constitution, which we all take an oath to uphold. Accountability and responsibility and consequences from a political perspective are different than punishment, from a political,

practical, policy, and legal perspective. I do not believe that we should support calls for, calls for cen-- censorship or expulsion for one of our own, particularly during debate about censorship and punishment. The solution for speech or arguments or proposals that we disagree with is to point that out and to speak in kind, to use our voice on this floor and beyond this august Chamber as we see fit. The antidote for speech we find offensive is speech, not punishment, not punishment at the hands of government. And colleagues, let me be clear. Popular speech needs no protection. Popular speech no-- needs no protection. That's why our civil rights and our civil liberties have long been protected by constitutional prerogatives, because unpopular speech is the speech that needs protection. Principles and character only matter if we stand by them when it's most challenging. It's easy to stand by principles from an academic perspective. When those values and principles are tested, it says a lot about who we are and what we stand for if we stand by them in the times of great challenge. I have confidence in our ability as individuals and as a collective to debate contentious issues, even when it's hard, even when it's offensive, even when it becomes personal, because that means standing by our commitment to free expression. We can call out speech we don't like. There can be political debate about that, but it is wrong to invoke governmental punishments for speech that we find offensive. Protecting the right to free speech and free expression does not mean condoning it. That's an important line that we have to be willing to understand, uphold, and stand along together. If a member thinks that engaging in debate is persuasive or effective, they have the right to do that. They have the right to do that, colleagues. You have the right to call it out and say you find it insulting, or offensive, or ineffective. You do not and should not pursue options or opportunities to punish that speech, from a political perspective. In addition to the rights and values guaranteed to each of us as Americans, as Nebraskans, as enshrined in our federal and State Constitution, there are also specific protections enshrined in our State Constitution to ensure that legislators and the speech that happens on this floor have the highest protection of the law. Look no further than Article III, Section 26 of our State Constitution, which explicitly provides that no member of the Legislature shall be liable in any civil or criminal action whatsoever for words spoken in debate. We didn't give that privilege to ourselves. That demand is entrusted upon us by the people of Nebraska who wrote and adopted this constitution, and it has to mean something. And it's there to provide guardrails at times of the most significant challenge. Accountability and responsibility are different than punishment. There can and there

should be accountability and responsibility for what happens on this floor and beyond. But there cannot and there should not be punishment for speech. And that extends not only to the issue that we have before us in the short term, but the substantive matters that are working their way through our various committees and that will be debated on this floor. At every instance and when it's particularly, a close call, our constitution, our values, our principles require us to come down on the side of free expression, not on the side of punishment, for librarians, for members of the Legislature, for people involved in peaceful, free expression, no matter how hard or distasteful or offensive it may seem to the listener or the audience. Over the last 12 hours, I, like many of you, have received dozens, if not hundreds of calls and emails and texts, and social media messages, about what happened here last night. It is our job to take into consideration the voices of the members of our second House. But it is our job to temper the toxicity in our politics, to take down the temperature, not turn it up, to not react to the apoplectic nature of social media, and to make sure that we as individuals and as a collective lead forward, appropriately. We should not weaponize the tools that we have available to us in our Criminal Code or in our Rule Book for political or partisan reasons, whether the challenging conduct or speech comes from a point on the right or the left of the political spectrum. This is what it means when we say, I don't support what you're saying, but I support your right to say it. Everyone understands what that means as Americans. It's critical to the values that we hold dear-- protecting speech, protecting academic freedom, protecting free expression. So now, when those values are most tested, is when we have to rise above party differences, about petty differences, above personal differences. And we have to lead by example, and we have to lead forward. I am asking members today to proceed in a thoughtful way, a measured way, to have robust discussion as they see fit, but to push back clearly and strongly against any punishment available to us for free expression, no matter how painful or offensive we may find it personally. That is what the law requires. That is the oath that we up-- that we took to uphold our state and federal constitutions. And I am grateful for your time, consideration, and attention. And I thank you for listening today. Thank you, Mr. President.

**FREDRICKSON:** Thank you, Senator Conrad. Mr. Clerk, you have an item on the desk.

**ASSISTANT CLERK:** Mr. President, there's a motion on the desk. Senator DeBoer would move to overrule the Speaker's agenda pursuant to Rule 1, Section 16(a).

**FREDRICKSON:** Mr. Speaker. You are recognized.

**ARCH:** We will take that motion up at this time.

**FREDRICKSON:** Thank you, Mr. Speaker. Senator DeBoer, you are recognized to open on your motion.

**DeBOER:** Thank you, Mr. President. Good morning, colleagues. This seemed like the-- this motion isn't a debatable motion. So it seemed like a good way to preserve our ability to discuss the budget for 4 hours when we get to that, should we choose to, and yet have the opportunity for folks to speak on the issue which Senator Conrad and Senator Arch raised before you. So I have filed this motion, and we have the ability to speak about it. And what I would ask of you, colleagues, is that I think that we will-- we've all had a judgment in our mind about the event last night, and that what I would ask you to do is to listen. Because in most situations, we can learn something from listening to each other. What happened last night was not OK. It wasn't. It was inappropriate. It was hurtful. It was not OK. I have known Senator Halloran over these last 6 years, and I do not think that that represents who he is. I hope Senator Halloran will listen to the folks who are upset about the incident last night, and I, I hope he will apologize. What many folks may be wondering about or thinking about right now is why we're taking the time to talk about this. It may seem to some like, oh, we shouldn't spend our time talking about this, or this is, this is much ado about nothing. But that is not true. If you have not been in the situation to experience harassment, sexual violence, you maybe don't understand the ways in which those memories can be triggered. And when describing the reading from the transcript, and then inserting a senator's name in there already, that's a problem. But the additional-- I think it was meant to be perhaps, some sort of maybe a gotcha moment or a, a moment of something. But there was aggression in it, and, and that's where the danger lies. And 5 years ago, I think it was, I stood up in this Chamber when Senator Chambers made a comment about a member in this body, that I also believe went beyond the pale. And in that day and in that incident, I also stood up to support the senator who I thought should not have been treated in that way. And so I stand up in support of Senator Machaela Cavanaugh, and honestly, also Senator John Cavanaugh and Senator Dungan. I agree with Senator Conrad that free speech includes speech we do not like, which we find abhorrent. I also think that as human beings and as people of integrity, we should stand up and call out that speech. And another little point I'll make. I was disappointed to see people laughing when Senator Machaela Cavanaugh

was discussing this issue last night. And to the extent that some of you found it funny to see another colleague in pain, I would ask you to do better. I would ask us all to do better than to neglect the human beings that are in this very tough job with you, and that includes those who do things which we do not like. I do not ask-- those senators who were impacted, I, I don't ask them to accept an apology, to move on, to any of those things, because that, that is not the appropriate thing to ask for. That is not OK. People get to feel how they feel, and we should take them seriously. I, I don't have the right words. I don't have the right words. I don't know who thought I would. We've got to be careful with each other, because we are all human beings who deserve respect. We are all human beings who do not deserve the aggression. I'm, I'm messing this all up. I'm not saying the right things, but, but I call-- I, I hope we will listen to each other today. I hope we will listen to each other today, because I do think this matters. I, I, I do think how we interact with each other in here matters. And I also don't think anybody should be thrown away. That is my policy when we're debating criminal justice, and it is my policy today. I hope that folks work--

**FREDRICKSON:** One minute.

**DeBOER:** --to regain the trust, though it will be hard. I hope we all take this seriously. I hope we don't laugh. I'm sorry I didn't do this justice. Thank you, Mr. President.

**FREDRICKSON:** Thank you, Senator DeBoer. Turning to the queue, Senator Blood, you're recognized to speak.

**BLOOD:** Thank you, Mr. President. Fellow senators and still friends all, I stand now to speak about the victims, the survivors, the people who don't have a voice on this floor today. And I have to disagree partially with Senator Conrad, because actions do have consequences. And yes, you do have the right to free speech. But just like we don't yell fire in a movie theater, we don't wantonly use words that refer to rape and insert a senator's name and expect there to be no consequences. People always say that words count. And by the way, it would be great if we had more senators that were turning around listening to people instead looking down. This is a great time to engage with other senators. I believe that it's-- that not only do words count, but it's what we don't say that really counts. And like it or not, friends, what happened yesterday trivialized sexual assault. I don't believe that was his intent, but that was the consequences of his actions. What was done yesterday-- again, whether



it was the purpose or not, marginalized not only Senator Cavanaugh, but every victim, every survivor. It makes it harder for them now to come forward when they have issues like this. And you've heard this on the floor. There are women here who have been violated, violently violated, who continue to move forward, continue to deal with those issues, some better than others. But until you have experienced that violence, until you have experienced that loss of power, that victimization, I really feel like your compassion should maybe be a little better, should be maybe more compassionate when it comes to these senators and the words that we use on these floors-- this floor. Yesterday, what was said literally reinforced what abusers, abusers have always said, that it's the victim's fault. And again, not the intent, but the consequence of the words. And so I speak out on behalf of the victims, on behalf of the sur-- the survivors, many that I'm sure have contacted you. People who were calling me in the middle of the night crying about their loved ones, who watched it and were in despair. That should not happen when you watch a legislative session, but that was the consequence of those actions. We have to hold others accountable for their actions, and we have to insist that there be respect in this space when it comes to issues like this. When we look at the bills this year, we've talked about obscenity and trafficking, sexual assault, pedophiles, child abuse. But yesterday showed that there are certain members of the body that are only concerned about the parts that they are particularly offended by, and I think that that's been the issue with many of the debates that we've had. We have got to be aware of the words that we use, especially when it comes to things that pertain to something so personal as sexual assault, as rape. What happened yesterday wasn't about the book that they want to ban, because if it was, a Cavanaugh name would not have been inserted into that. It was about stirring things up, being disrespectful--

**FREDRICKSON:** One minute.

**BLOOD:** --and like it or not, it was about re-victimizing a victim. And that's not going to go away. And I do hope, regardless of what the purpose was, that there is some guilt today that Senator Halloran is feeling. Because his actions created a world of hurt for hundreds, if not thousands of Nebraska women, and I'm guessing men, as well. But I've only heard from the women because men tend not to share their stories, because they feel embarrassed about it because guys aren't supposed to be raped. Actions have consequences. And the consequences are that we hurt a lot of good people with that few minutes of speech, regardless of whether it is free speech or not, Senator Conrad, and that we cannot do that on the floor of the Nebraska Legislature.

**FREDRICKSON:** That's your time.

**BLOOD:** Thank you, Mr. President.

**FREDRICKSON:** Thank you, Senator Blood. Senator McDonnell would like to recommend a group of ServeNebraska AmeriCorps members from across the state, in the north balcony. Please rise and be recognized by your Nebraska Legislature. Senator Halloran, you are recognized to speak.

**HALLORAN:** Thank you, Mr. President. Well, I have an apology to make. And I'm, I'm not going to make the apology to take the load off my shoulders in the way I presented what I presented yesterday. But I apologize for interjecting the senators' names in the middle of reading a transcription-- transcribed testimony in a public hearing in reference to a book that is in some schools, and in some schools, required reading. It was a hard thing to read. And no, I was not trivializing rape. I was reading from a book that's required reading for some students. Should I have interjected the senators' names? No. Sometimes we do things on the floor in the midst of making a statement that we shouldn't have done. I think once the Transcribers transcribe what was said yesterday, you will see that, prior to my speaking, Senator John Cavanaugh and Senator Dungan spoke in terms of the constitutionality of the issue. And I respect them both. They are very, very intelligent attorneys, and they do understand the Constitution, and we all respect the Constitution. But that being said, once the Transcribers have transcribed what I said, I think you'll notice that I first referenced Senator John Cavanaugh. Should I have done that? Maybe not, but what I was trying to do was get their attention, get their attention to what I was reading from this book. You know, senators on the floor, people do speak. And Senator Blood will point this out from time to time. And she's correct. Sometimes we don't give attention to who is on the mic, and who's speaking on whatever issue it might be. We should be doing that. We're all guilty of not doing that. I understand that. I'm guilty of it. But in the middle of my reading of that very harsh description that was in the book, again, required reading for some students, in the middle of that-- reading of that, it was clear to me that some people were not paying attention. And so I called their name out, and I shouldn't have. It was, it was a mistake to do that. But underlying what the reason for my doing that was-- I think it's important-- we, we spoke in broad generalities about books that are in libraries, books that are required reading for some students. We spoke in broad generalities, and the public really wasn't aware of what is in some of those books. I read-- read an excerpt from the book, Lucky. Lucky is a

story about a young woman's experience-- horrible experience being raped. I think, 18-years-old, she was raped by an individual who, as the story was, was, was written, was raped by an individual who had previously raped several other women and killed them. And the title of the book was Lucky, because she felt lucky that she survived. She felt lucky that she survived. So I understand the context of what I read from that book. But regardless, if you reread that, if you reread that-- it's on the record, both in the committee and what I said yesterday. If you reread that--

**FREDRICKSON:** One minute.

**HALLORAN:** --if you reread that, it is a, a lesson on how to rape. That's what we should be outraged about. It was a blow-by-blow lesson on how to rape a woman. That's where the outrage should be, not in my pointing it out that it's in a book. In, in regard to freedom of speech and banning books and all this language that gets bantered about, I think it's a matter of good judgment for schools to pick books that are OK for kids to read. And if parents want to buy these books and give them to their children, that's, that's their liberty to do that. So again, I apologize to Senator Machaela Cavanaugh. If you read the transcription once they're written, I think you will note, note, note that in the transcription, I first addressed Senator John Cavanaugh.

**FREDRICKSON:** That's your time, Senator.

**HALLORAN:** Thank you.

**FREDRICKSON:** Thank you, Senator Halloran. Senator Slama, you're recognized to speak.

**SLAMA:** I, I took a decent amount of time trying to figure out what I would say today. But my brain just kept going back to-- every spring break, so around this time every year, there's always a few little girls that come to the Capitol. And it's wonderful. Like, they're excited about politics. And they say and it's crazy. Like, you all can laugh at this if you want, but they want to be me when they grow up. It's wild. It is such a privilege for me to be a young woman on the floor and to be that person that they can look to. It's also horrible on days like today, because we fail them so constantly here. We, we can debate about who should be able to access books with graphic depictions of rape. Kids shouldn't be exposed to it, in my opinion. But this isn't about the books. It stopped being about LB441 when we

started bringing up rape, and interjecting a Cavanaugh's name into a graphic description of rape. Those comments were wholly inappropriate. And I'm beside myself at the tone that's been set for this morning, that somehow we have this underlying current of we need to let this go because there's more important things for us to be talking about. I don't care if it was John Cavanaugh. I don't care if it was Machaela Cavanaugh. It doesn't matter the gender of the person you were trying to sexually harass. This isn't new. Like we can't get up here-- Senator Arch even admitted. This isn't new. Senator DeBoer referenced it in her comments. Senator Chambers got up in 2020 and talked about enslaving and raping me, and claimed that I owed my political career to favors of the flesh. There wasn't a formal response then. And I can't change that. For years, I've fought behind the scenes, trying to get the Executive Board to take action on any form of an HR structure, to protect staff and to protect my colleagues from predatory senators. Right now, there are 3 actions that can be taken by the Legislature on this occasion: a formal letter from the Executive Board, a censure from the Legislature which has no impact other than being a vote taken to condemn the action, and expulsion from the Legislature. There is nothing else. And I'm still the only woman on a 9-member executive board tasked with being the HR arm of the entire legislative branch. I can't change that either. But what I can control is how I choose to respond to this situation, when one of my other colleagues has been targeted. Now, whether that is Machaela Cavanaugh or John Cavanaugh, it doesn't matter. It's one of your colleagues. If you were at your job, any other job, any other job in the world, and you got up and told your coworker in front of the entire rest of the workplace, give me a blow job. And you got up and you said that, and then you interjected their name into a graphic description of a rape, what do you think your company would do to you? Do you think you would have your job the next day? I'm almost more fired up about this when it's not me. Because like my instinct, as every woman's is when something like this happens, is to minimize it immediately, and to go, yeah, well, you know, it wasn't that bad. And if I make a big deal of it, OK, cool. Now it's not me anymore. Now it's someone else. Next year, it'll be somebody else. And we'll still be navel-gazing and going, well, gosh--

**FREDRICKSON:** One minute.

**SLAMA:** --you know-- thank you, Mr. President. We can't have an HR policy because this place is special. This place is special because it's the one place in the state of Nebraska where you can get up and talk about raping a colleague and not have any professional

consequences. We have to do better. We can't just let this go. We owe it to the little girls who are watching at home wanting to be something like this when they grow up. We owe it to every Nebraskan because we are the most public workplace in the state, and we deserve for it to be a professional workplace. Senator Halloran, you should be ashamed of yourself for being incapable of apologizing. There is no justification for your actions, and you should resign.

**FREDRICKSON:** Thank you, Senator Slama. Senator John Cavanaugh, you're recognized to speak.

**J. CAVANAUGH:** Thank you, Mr. President. Well, I wasn't actually planning to talk. And I appreciate Senator Slama's comments. But I guess since, like a lot of things, when you don't intend to be part of a conversation, but you don't get to choose whether or not you're the target or subject of sexual assault, you don't get to choose whether you're the target or subject of, some sort of, I guess, political maligning for grandstanding purposes. Senator Halloran, I, I guess I don't know what to say to what you said yesterday. But I would say, again, you missed the point. You're saying that you owe me an apology for inserting me accidentally into this sentence. You're missing the harm that that action caused to everyone else around us. Senator Slama, I couldn't say it better than you, so I won't even try. But the actions have consequences. Yes, our speech is protected in here, and our speech is protected everywhere, honestly. But they still have consequences. And sometimes, those consequences are the harm that your speech causes. Now you want to rely on the fact that what you were reading is a transcript of a book that you're saying is taught in schools, and you did correctly point out that this is a book about an individual who had-- who was raped at the age of 18, and had traumatic results of that. What you are missing is the value of her sharing her story and the value that people derive from reading that story. And what you did in this conversation about obscenity and prurient interests, is took a story and inserted your colleagues into it for effect, which, in itself, you created a new work, one that is far more prurient than the original content you were discussing. Because you, in essence, sexualized the people you work with for some effect. And that's what we're talking about. The protected speech and the value derived from these books that you don't like is that they have other context and surrounding value to people as a whole. The value of reading about somebody's traumatic experience to someone who went through a traumatic experience is that it helps them cope. It helps them move on. It helps those of us who have not experienced a traumatic experience to empathize with them. So, of course, I would

suggest to you, read that whole book. Read the rest of it. Find out what is the value there, because you're not deriving empathy from the paragraphs that you've read. You are deriving some sort of other value for you. And I-- I'm, I'm not going to suggest what it is, but it does tread close to the prurient. So, just-- I appreciate everyone's comments. Senator Blood, I don't want to leave you out. You said some really good things I did write down. I did have my head down, Senator Blood. I apologize, but I was taking notes. But one of the things that--

**FREDRICKSON:** One minute.

**J. CAVANAUGH:** Thank you, Mr. President-- inspired me to stand up was, I think Senator Blood said it, men often don't come forward. And I'm-- don't feel bad for me, but I don't want you to think that I'm ashamed of what's happening here. I'm proud of the work we do. I'm proud of the work that I do. And I'm proud of the stances I take. And Senator Halloran and I will stand up and fight for your right to exercise your freedom of speech, even when it is offensive to me and my friends and family. So I hope that we can all move on, but I hope we've all have actually taken an opportunity to learn what is and is not obscene, and what is the value of learning about people-- other people's experience. So thank you, fellow colleagues. And thank you, Mr. President.

**FREDRICKSON:** Thank you, Senator John Cavanaugh. Senator Machaela Cavanaugh, you are recognized to speak.

**M. CAVANAUGH:** I actually would like a point of personal privilege.

**FREDRICKSON:** Please state your point.

**M. CAVANAUGH:** Thank you. I was going to take a point of personal privilege earlier, but I was a little overwhelmed by the tone-policing that was happening by my colleagues, so I had to take a step away. I love you, Senator John Cavanaugh. You are an amazing example of what a man should be, of what a father should be, of what a brother should be. And I am so privileged to serve in this body with you. It is an honor. I had written remarks that I was going to say this morning, but they no longer feel right or appropriate. I believe in the freedom of speech. And I know that the speech on this floor is protected speech. But it is misguided to think that there is a-- same thing between appropriate speech and protected speech. Yes, it's protected, but no, it is not appropriate. And no, it should not be tolerated. And to

Senator Slama's point, we should have some mechanism to address inappropriate speech. But we don't. And we have failed ourselves. And we have failed Nebraska in that point. I am so sorry to all of the people who have been harmed by the discussion last night, both inside this body, men and women, and outside of this body. It was not appropriate. And it was not who we are. And it is clearly not something we should tolerate. I want to be careful with what I say because I see some students up in the balcony. Hi. Some fourth graders. We're having a debate about First Amendment, freedom of speech. We're having a little bit of a disagreement over that. But this actually, is a lot about you all, and, and school and education. What's appropriate versus freedom of speech. There's a lot of things that people can say that are covered under freedom of speech, but they probably shouldn't say them in front of you. So I'm not going to say any of them in front of you today. I hope that we will move forward with the seriousness of this body and the seriousness that Nebraska deserves. I am fine. I went home last night and I got to snuggle with my "snug-a-nug," my middle child. She was still awake when I got home, and she wanted me to lay in bed with her until she fell asleep. So I did. And I stroked her hair and I rubbed her back and I kind of hummed to her, and it was wonderful. I'm fine. I'm hurt, I'm upset, but at the end of the day, I'm fine. I have a full life. I get to work with my brother, who's an amazing human being. And I have colleagues who are willing to stand up and defend me, and defend this body, and defend the public. So I'm fine. I will say that, yes, what we say here is protected speech. But what we say off the mic, that's different. And yesterday, before the dinner break, Senator Halloran came up to myself and Senator Walz and started telling us what was in that passage that he read into the microphone. He started describing it to us. So when he says that this wasn't directed at me, even though he did invoke my name at the start of his remarks before he invoked my brother's name, and then he dropped the first name, when he says it wasn't directed at me, I don't believe him. Not that it matters, because, as my brother said, men are victims of sexual violence, just like women are. And it is not appropriate. But it is also not appropriate to walk up to 2 of your female colleagues and start describing a rape scene right before the dinner break, off of the mic. So, do with that what you will. Thank you so much to Senator Slama, for continuing to stand up. I know it's not easy. I know people have not believed you all of the time. But you are an amazing advocate for victims. And your voice is so important, so thank you. And I will end there. Thank you.

**FREDRICKSON:** Thank you, Senator Cavanaugh. Senator Kathleen Kauth would like to recommend 42 fourth grade students from Ackerman Elementary in Omaha, in the south balcony. Please rise and be recognized by your Nebraska Legislature. Senator Meyer would like to recognize 20 students from Central Valley, Central Valley High School, and 2 teachers, in the north balcony. Please stand and be recognized by your Nebraska Legislature. Returning to the queue, Senator von Gillern, you are recognized to speak.

**von GILLERN:** Thank you, Mr. President. I really didn't want to be on the mic this morning, but I can't sit quietly. And I think the balance of male to female comments this morning is a little bit out of whack. And I think it's appropriate that, as a man, I stand and say what I believe all men should say and what they should believe. And as someone who is seen in the body and rightfully so, as someone who's right-leaning, it might feel a little, little bit odd to hear some of these comments, but I'll say them and I'll try and say them with as much grace as I can, knowing that there are fourth graders in the room. Senator John Cavanaugh mentioned that men are assaulted, also. And that is true. And men are impacted by sexual assault. I'm grateful that that's never happened to me personally, but it's happened to 2 family members. And with apologies for sharing a story that isn't completely mine, I'll just say that being the father of a rape victim is a very hard thing. And maybe it's PTSD, I don't know. But when you hear a story that brings back personal memories and, and hard memories, it doesn't matter what your gender is. If somebody told a story about something horrible that happened and the victim's name was Brad, and they repeated the name Brad over and over and over again in that horrible story, I don't know that I could help but flinch every time I heard my name, whether it was directed at me or not. So I struggle with [INAUDIBLE], and it's inconvenient and it's a challenge. And sometimes we've all confused the 2 Senators Cavanaugh in the room in our, in our own testimonies. But be that as it may, I know I could not help but take it personally. When our kids were little and we taught them about apologies and forgiveness, one of the things that we taught them is that the word "but" can never be in an apology. It makes it a conditional apology. And while, Senator Halloran, I believe that you meant no harm-- I believe that with all my heart that you meant no personal harm to anyone, a conditional apology is still not a full apology. I encourage you to continue to search your heart. And I hope that your perspective on this changes to some degree. And I hope and pray that anyone who was negatively impacted by what was said finds healing over that. Thank you, Mr. President.



**FREDRICKSON:** Thank you, Senator von Gillern. Seeing no one else in the queue, Senator DeBoer, you're welcome to close on your motion.

**DeBOER:** Thank you, Mr. President. I just want to make sure it was abundantly clear that I stand with Senators Cavanaugh's, the-- both Senators Cavanaugh and Senator Dungan, in saying this should not have happened. It is not OK. It is not acceptable. Senator Halloran, I also ask you to do better in your apology. Senator Slama is right. These things happen here. They happen here more than you think. Someone this morning says it doesn't happen where I'm from. It does. If you don't know it, that's why we have these discussions, is because it does. I've been a lot of places in my life. It's happened everywhere I've been. If you think the underlying stories don't happen where you've been, they do. We should be something that the state of Nebraska is proud of. I don't think they can be proud of us after yesterday. I think we all have a duty to earn the respect of the state of Nebraska again. I was on the committee with Senator Slama that was working on trying to figure out how we handle these situations, and it is difficult. And I will take responsibility for being-- I, I should have done more to make that happen. And I'll try to in the future. I thank you all for listening, that did, and for taking this seriously. This is serious. It's very serious. It's serious because it matters, not just to the people in this room, but to the people outside of this room for whom we are supposed to be leaders. We are supposed to be examples. Yeah. We are all human, so we will fail at that. And when we do, we just need to do better. So we need to do better. I will-- I commit right now, I will do better. I will try harder. I will try to find a way to make sure that we do better. Mr. President, I would like to withdraw my motion.

**FREDRICKSON:** So ordered. Mr. Clerk, for items.

**ASSISTANT CLERK:** Thank you, Mr. President. Your committee on Revenue, chaired by Senator Linehan, reports LB350 to General File, LB937 with committee amendments. Senator Linehan has amendments to be filed to LB1317. Senator Vargas has amendments to be filed to LB1355. And Senator Kauth has LR331. It'll be read and laid over. That's all I have, Mr. President.

**FREDRICKSON:** Thank you, Mr. Clerk. We will now proceed to the first item on the agenda.

**ASSISTANT CLERK:** Mr. President, Select File, LB1413. I have E&R amendments.

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**FREDRICKSON:** Senator Ballard, for a motion.

**BALLARD:** Mr. President, I move the E&R amendments to LB1413 be adopted.

**FREDRICKSON:** Colleagues, you've heard the motion. All those in favor say aye. Opposed, say nay. They are adopted. Mr. Clerk, next item.

**ASSISTANT CLERK:** Senator Clements, I have FA256. I have a note that you wish to withdraw it and substitute AM3071.

**FREDRICKSON:** There has been an objection to withdraw with substitute. Senator Clements, for what purpose do you rise?

**CLEMENTS:** I would move to withdraw FA256 and substitute AM3071.

**FREDRICKSON:** Senator Clements, you are recognized to open on your motion.

**CLEMENTS:** Thank you, Mr. President. This is-- LB1413 is one of two budget bills. And the, the-- LB1413 is the cash funds transfer bill. LB1412 follows this, but I wanted to start with the cash fund transfers. And I had a handout that was handed out to you earlier. It has both LB14 and LB13 on the handout. And it shows in the far right column which bill we're talking about. And we're talking about LB1413, which is the cash fund transfer. You think of the cash fund transfers, especially our Cash Reserve, is like your savings account. If you're going to buy a car and you've saved up \$10,000 in your savings account, you transfer from your savings account to your checking account, and then you write the check. The General Fund, which is LB1412, is the checking account. We're talking about basically savings accounts here. Item 1 on the handout says-- there are 3 lines for item 1. The state unemployment cash fund-- I, I guess I'll preface this with-- there were a number of objections and questions about some of the funds transfers. And I've met with the Speaker, several senators, Governor's staff, and have come to an agreement with those, as far as I know, that this is an agreeable, overall solution to do some changes to the budget that aren't real major, but at least are going to address some questions. So the first one, the state unemployment fund transfer was proposed to be \$70 million, and there still will be \$70 million transferred. But the first line shows \$40 million reduction to that transfer, in the second line, is going to transfer that to a new Department of Labor cash fund called the Workforce Development Program Cash Fund. And so, \$40 million of the \$70 we're going to earmark. So

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the Department of Labor is going to be spending that for employment and job-related functions so that it does-- it would have otherwise just gone to the General Fund to be spent on all of the general expenses. But \$40 million will be just allocated to the Department of Labor. So that's lines 1 and 2 on the spreadsheet. Then you go down to item number 3, is the next item in this bill. Behavioral health reduced the transfer-- the behavioral health transfer was on page 58 of the Governor's gold book. It was going to be-- let's see-- it was proposed to be \$15 million. This will reduce that by \$2 million. It was going to reduce the fund balance to \$1.1 million. This restores \$2 million will-- remaining-- will have remaining balance of \$3.1 million. That fund also gets \$4.5 million a year from documentary tax, so it does have revenue coming in the future. Line 4 is-- and I am-- the senators who brought forward some of these requests, I hope they will get on the microphone and discuss them. Next one is a tenant, tenant assistance using the Attorney General's settlement fund, a \$500,000 allocation there. Item 5 is Madonna in Lincoln. And it does have still a \$500,000-- \$5 million dollar ARPA allocation. It was proposed to remove \$10 million of that. You'll see a \$7 million item there. So, it's going to end up that Madonna will have \$5 million of ARPA funds and \$3 million of cash reserve funds. And I've been told that they're expecting \$7.8 million from the new hospital assessment fund, which will be every year. So those numbers add up to over \$15 million, is what they had actually-- originally had in our budget. And so, I believe that's restoring them, with different pieces, to what they had in the original-- the proposed budget. Line 6, the York prison water system repair. Corrections said that \$2.5 million is needed to repair the York women's prison. And that's line 6. We're going-- that will be a cash reserve transfer. That's a new item. Line 7, Special Olympics. There's an amendment proposed for Special Olympics. This amendment would transfer \$500 [SIC] from the Cash Reserve for Special Olympics programs. Then go down to line 10, is the last item in LB1413's amendment, AM3071. For tribal water system, it doesn't allocate dollars, but it gives an intent to prioritize any tribal water system that has, has a federal do not drink order. And we do have a tribal system that has a do not drink order. And we're authorizing the Water Sustainability Fund grant to be an intention to prioritize the system that is in that situation. Then down at the bottom, you'll see a tourism fund transfer that has already been accomplished. It's not in this amendment. We did that the other day, where there was \$5 million coming out of the visitor fund, and we, we reversed that. That's not in today's amendment, but I just wanted to point that out so that you'll see that-- the bottom line, all of

these-- both of these bills-- or the amendments will, will reduce the General Fund by \$7 million. It will reduce some cash funds, \$23.5 million, but the Cash Reserve will increase by \$4 million once we get both of these bills. And I welcome people to speak about individual items that they had requested here, and I welcome questions if you have any. Please let me know. Thank you, Mr. President.

**FREDRICKSON:** Thank you, Senator Clements. Moving to the queue, you are also next in the queue, Senator Clements. You're recognized to speak.

**CLEMENTS:** I, I waive. I've, I've said enough for now. I'll be back later.

**FREDRICKSON:** Thank you, Senator Clements. Senator Wishart, you're welcome-- recognized to speak.

**WISHART:** Thank you, Mr. President. It's good to see you up there. I rise in support of the amendments and the underlying bill, and want to speak specifically to a couple of items that the Chair went over, but I want to go in a little more detail. One that I had mentioned early on, and it's an issue that I want to thank Senator Raybould for bringing, and Senator Brewer, as well, for championing over the years. Our tribal water systems, in particular, the Santee Sioux, for the Santee Sioux Nation, are in disrepair. In terms of the Santee Sioux Nation, they're under a do not drink restriction because the quality of their water is so damaged. And we've had a lot of conversations over the years with how we can manage this. And I am excited to announce that, included in this amendment, is a prioritization of tribal water in our Water Sustainability Fund. So if you look at the amendment, AM3071, on page 3, you'll see language inserted that the commission-- this is the commission that oversees the Water Sustainability Fund-- when ranking and storing applications for funding, will prioritize projects for drinking water improvements for any federalized rec-- federally recognized Indian tribe whose drinking water is under a non-drink order from the United States Environmental Protection Agency. We anticipate there's about \$20 million additional dollars in that fund. And so my hope is that, in applying-- if the, if the tribes choose to apply for this funding, that, that their funding needs will be prioritized. Another area I want to focus in on this amendment is funding for the York prison water system. I know Senator McKinney is, is coming up, and, and he and Senator Wayne are, are 2 that brought this issue to our Appropriation Committee's attention. It is my understanding that they have significant water challenges at that women's prison that are long overdue, and so I am glad that we're

prioritizing that in this budget, in this amendment. I know Senator Dungan is also-- oh, he got off? So I will talk a little bit about the court interpreters. I'm glad to see in this amendment that we are earmarking and prioritizing \$600,000 in investment to our Supreme Court interpreters. This is one of the more compelling hearings that we had in Appropriations Committee. It is vital that in people having access to justice, they're able to communicate with each other. And so I'm glad to see that this amendment is also prioritizing that. And then I'm glad to see that my friend and colleague, Senator Danielle Conrad, she brought a very important bill in terms of tenant assistant-- assistance, in helping to ensure people are not evicted, and that we're finding solutions that, that don't lead to people being unsheltered. And so, I'm glad to see that we're putting and investing some dollars into the sort of legal support that goes into making sure that people have housing justice, so that's included in this amendment, as well. And so I'm, I'm really proud of the work that we've done, to listen to some of the members of the body as this budget came to the floor, and try and address some of the issues that, that we heard. And that's why I will be wholeheartedly supporting this amendment. Thank you.

**FREDRICKSON:** Thank you, Senator Wishart. Senator McDonnell announces the following guests who are visiting the Legislature, 7 members of the Men of God Bible Study, from Omaha, under the south balcony. Please rise and be recognized by your Nebraska Legislature. Mr. Clerk, for a motion.

**ASSISTANT CLERK:** Mr. President, Senator Machaela Cavanaugh would move to bracket LB1413 until April 18, 2024.

**FREDRICKSON:** Senator Machaela Cavanaugh, you are recognized to open on your motion.

**M. CAVANAUGH:** Thank you, Mr. President. Colleagues, feel a little bit like a-- is it a yo-yo? Just kind of this topic, then this topic. I-- during the height of the pandemic, when we were all sheltering at home, a friend described it to me, when you are trying to educate your kids and work and just be in your house all together, and you're going from thing to thing to thing, the constant context switching. And I was like, that is what being in the Legislature is. It's just a series of context switching. So I'm, you know, kind of like a yo-yo on context today. So forgive me if it takes me a few minutes to get my own brain up to speed on what's going on. So I put this motion up because, genuinely, I didn't know what was in this amendment, and I

didn't want to allow the amendment to just go up without having some clearer understanding. So I, of course, am going to ask Senator Clements to yield to a question.

**FREDRICKSON:** Senator Clements, will you yield?

**WAYNE:** Senator Clements, Machaela Cavanaugh is asking you to yield.

**CLEMENTS:** Yes.

**M. CAVANAUGH:** Thank you, Senator Clements. Welcome back to our lively debate.

**CLEMENTS:** Yes.

**M. CAVANAUGH:** OK. So this amendment, I was listening as you were introducing it. And you passed out a chart. And there's some things on here that, I guess I have questions about how these decisions were made. So let's start with the \$40 million unemployment fund. Why-- what is the change there?

**CLEMENTS:** There was going to be all \$70 million, transfer was just going to the General Fund to be spent. And I had a request, had meetings with several senators that brought issues. And, a proposal was made to separate \$40 million that only Department of Labor will use to-- because Department of Labor and the budget people said they, they could spend \$10 million a year for 4 years out of this-- out of a new workforce development program. And so, the-- there was an objection to just taking unemployment dollars and just spending them in general funds. This will allocate them for workers and jobs in Department of Labor. And they-- that was the amount that I was told the Department of Labor has use of in the future.

**M. CAVANAUGH:** So, so this \$40 million is in addition to the \$70 million?

**CLEMENTS:** No, it's part of the \$70 million.

**M. CAVANAUGH:** OK.

**CLEMENTS:** It's-- it was taking the \$70-- \$40 million of that \$70 and moving it over.

**M. CAVANAUGH:** So is it-- is that \$40 million funding things that were part of the intended budget already, or is this an additional expense that we're--

**CLEMENTS:** This will be future items that the Department of Labor-- programs that they will spend money on. And they-- there may be-- some of the items they would have spent general funds. This will allow them to spend this cash fund, with earmarked dollars for-- out of the unemployment fund.

**M. CAVANAUGH:** So is this-- if we adopt this, is this going to change the balance of available funds on General File for the floor?

**CLEMENTS:** Well, that's-- no. Because it is actually replacing \$40 million that we would have spent-- that the Department of Labor would have spent general funds, and now they're going to spend cash funds. And so--

**M. CAVANAUGH:** OK.

**CLEMENTS:** --if you look at the third line down, there's a-- under general funds, there's a plus \$40 million. So-- but it's over the next 4-- you'll see fiscal year '24, 5, 6, and 7.

**M. CAVANAUGH:** OK.

**CLEMENTS:** And we, we work with a 4-year period of time. So we're saying that it's going to save \$40 million of general funds by using that cash.

**M. CAVANAUGH:** OK. And then the Medicaid Excess Profit Fund, what is, what is the change here?

**CLEMENTS:** There was a request by the agency to with-- to transfer \$38 million into committee. We passed over that, and we-- we're going to wait and come back to that, because there are bills that we have to spend that. There was-- and I, I passed out a handout. In committee, I failed to get back and address that. There are bills using that fund in the amount of about \$5 million. And I checked with-- it's-- so we're reducing the \$38 million transfer to \$30 million, leaving \$8 million for bills out of that fund, which currently, there are \$5 million worth. And so, that is-- Health and Human Services especially need-- needs that money for the Medicaid recertification unwind. In the handout I gave you, there is at least \$60 more million they've had in what they call federal unfunded mandates that they're funding.

**M. CAVANAUGH:** Why, why is it costing them so much to do the unwind?

**CLEMENTS:** Could you repeat that? I'm not able to hear very well.

**M. CAVANAUGH:** Why is it costing them so much to do the unwind? The unwind is just evaluating people who qualify for Medicaid or-- and deciding if they qualify or they don't qualify. So why is it costing them so much more than just running the Medicaid program?

**CLEMENTS:** That's above my pay grade. I was just--

**M. CAVANAUGH:** Did they give any reasoning when they made the request, for either the \$60 million or the \$30 million-- \$38 million?

**CLEMENTS:** The handout talked about a \$30 million cost, another \$32 million, and a \$13 million, in addition to the unwind. So it's, it's helping them with additional general fund unexpected costs.

**M. CAVANAUGH:** So is the unexpected costs the drop in the FMAP?

**CLEMENTS:** Yes. That's part-- that's one of the items. That's the second one.

**M. CAVANAUGH:** OK. OK. And then why-- the behavioral health transfer. It sounded like you were reducing it, but not reducing it?

**CLEMENTS:** There is a transfer, but there was a request not to reduce it so much. So this is restoring \$2 million to that-- of that fund. The transfer was taking the balance down to \$1.1 million. This is-- this will bring it back up to \$3.1 million ending balance. Plus they get \$4.5 million a year of revenue from documentary tax. That was the-- a request to not reduce the fund so low.

**M. CAVANAUGH:** OK. And why are we reducing the tenant assistance fund by \$500,000?

**CLEMENTS:** Oh, that's the negative number, see, is we're spending cash. We're going to fund that--

**M. CAVANAUGH:** OK.

**CLEMENTS:** --from the state settlement fund.

**M. CAVANAUGH:** OK.

**CLEMENTS:** A negative number means we're spending money.



**M. CAVANAUGH:** And then we're taking the Madonna reverse appropriation. What does this mean?

**CLEMENTS:** The, the approp-- the committee amendment put \$10 million for-- of cash reserve and \$5 million of ARPA funds for Madonna's HVAC system. The-- let's see here. The--

**M. CAVANAUGH:** So we're cutting, we're cutting that down to--

**CLEMENTS:** We're, we're going to remove the \$10 million of-- it was originally going to be do-- doing that. But it's now-- now they're going to get \$3 million and \$5 million. The--

**M. CAVANAUGH:** OK.

**CLEMENTS:** --we're-- we are removing \$7 million of the \$10 million that was allocated--

**M. CAVANAUGH:** OK.

**CLEMENTS:** --which is going to help fund these other items that people wanted.

**FREDRICKSON:** One minute.

**M. CAVANAUGH:** And then we're adding into this, the York prison system water and the Special Olympics pro-- program?

**CLEMENTS:** Yes. We're-- those are the additional expenses and the, you know, the new Madonna funds is covering those.

**M. CAVANAUGH:** And a PTSD pilot program?

**CLEMENTS:** That's ARPA funds, but--

**M. CAVANAUGH:** But we're adding that in?

**CLEMENTS:** --yeah. Yes. That's--

**M. CAVANAUGH:** So then, what's-- but then are we taking \$500,000 from the Department of Transportation?

**CLEMENTS:** Yes. The committee had every-- all the ARPA that wasn't allocated was in the committee amendment. It was about \$20 million to-- it was going to the roads fund. And to fund the PTSD program, we're just reducing the roads operations \$500,000.

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**M. CAVANAUGH:** And then I don't see any money for the tribal water system.

**CLEMENTS:** Well, possibly, Senator Wishart could speak to that, but it's a-- we didn't have a dollar amount, so it's the--

**FREDRICKSON:** That's your time, Senator.

**M. CAVANAUGH:** Thank you. I'll come back with more questions.

**FREDRICKSON:** Senator Walz would like to announce the following guests that are visiting the Legislature, 11 fourth grade students from Trinity Lutheran in Fremont, in the north balcony. Please rise to be recognized by your Nebraska Legislature. Senator Jacobson, you're recognized to speak.

**JACOBSON:** Thank you, Mr. President. Well, I think I got part of my questions answered. I, I do have a quick question for Senator Clements, if he would yield to a question.

**FREDRICKSON:** Senator Clements, will you yield?

**CLEMENTS:** Yes.

**JACOBSON:** Senator Clements, I, I know we discussed this a little bit yesterday. And I guess, seeing it in front of me again this morning, I just want to clarify a couple of things. So, my understanding in having some conversations with Senator Hansen. So the Department of Labor Fund, which is really that state unemployment fund. And so as people know, there-- we-- the, the-- currently, employers pay into the federal unemployment fund and the state unemployment fund. A portion of what they pay into the federal fund goes to this state fund. And it's accumulated to about \$7.8 million. And so, we're going to take \$40 million and move it into a new fund that would be for job training, which is what the interest on that fund has been used for up to now. And then \$30 million is going to go and stay in-- into the general fund. So that's going to leave us with about, roughly \$8 million in the fund. Is that correct?

**CLEMENTS:** \$12 million.

**JACOBSON:** \$12 million. All right. Even better. So I guess the question is, what do you see the plans to be from there for that \$12 million and for those employers that are still paying into that state fund? Are we looking to try to eliminate that going forward?

**CLEMENTS:** Yes. The-- if you read the statute, the director, on December 1, has the ability to change the rate of tax on that fund, every December 1. And it looks like the body would like for him to change it to zero, or the body could do that in a bill, but it would be next year.

**JACOBSON:** And I think-- my conversation with Senator Hansen, I think we're currently at a statutory minimum. So next year, we'd have to bring-- or we would need to do something to let Senator-- lets the director basically take that to zero so we quit building that state fund. Correct?

**CLEMENTS:** Yes.

**JACOBSON:** OK. Thank you. The other question, I guess, has to do with the behavioral, behavioral health transfer. If I'm not mistaken, there was \$15 million of, of that fund that was being taken out. And now, there's \$2 million being restored back into it.

**CLEMENTS:** That's right. That was a request by someone interested in that. And they said they would be more comfortable with that transfer if we would restore \$2 million, because it was taking the balance down to \$1 million. This will leave it at a little over \$3 million. Yes.

**JACOBSON:** OK. Thank you. Thank you, Senator Clements, I guess I would just say that I, I continue to have concerns about the behavioral health transfer. I'm, I'm going to vote in favor of the, of the bill, because I think everything that we do here results in compromise. And I think it's a good compromise. I think, I think the committee has done a good job of listening to constituents and listening to the body. And I think you've come up with a reasonable plan here. So I, I am going to-- the-- move-- I am going to vote in favor. However, I do believe that behavioral health still is a huge problem for us in this state. And I think we need to continue to be proactive and getting DHHS to be a little more responsive, in terms of funding the health districts and allowing them to continue to take care of patients and people within the state of Nebraska. So, that's what I'm going to want to watch in the future. And-- because I know that this is something that is important to my constituents, and it's a problem that seems to never go away. In fact, I believe it's continuing to get worse, so I'm concerned about removing funding from that. But I do believe that overall, this is a good compromise with the dollars that are available, and so I'm going to support this bill. Thank you, Mr. President.

**FREDRICKSON:** Thank you, Senator Jacobson. Senator McKinney, you are recognized to speak.

**McKINNEY:** Thank you, Mr. President. I rise in support of the bracket motion, mainly because I'm looking at this thing that was handed out, and I don't see any adjustments for the housing that I brought up last week. I do have an amendment to address that. That is AM3069. Because, as I stated last week, there is inequity in housing funding, in the rural workforce housing and the middle income workforce housing. There is a gap of-- if we go with what we're-- what is proposed in the budget, there will be a gap of \$42.3 million between the 2 funds, which is complete inequity. So what I'm proposing is that we just evenly divide the money out. If there's \$25 million for housing, let's just give \$12.5 million to rural and give \$12.5 million to middle income workforce housing. I think that is fair. It will still be inequity in the funding, but at least we split it in half this year and we can figure it out next year. But that's my problem with this proposal of whatever this floor amendment is. Nobody has addressed that piece of this. We got up today and talked about doing better, caring about the people of Nebraska and being fair and thinking about them and, you know, stomping out inequities in this state. And this proposal doesn't do it at all, you know. So I brought I AM3069, because if we're, if we're devoting \$25 million to housing, I think it should be evenly divided. I think that is nothing but fair. When you look at the numbers and you clearly see that if we give \$20 million to rural workforce housing and only \$5 to middle income workforce housing, there will be a \$42.3 million gap between the funds since 2017. Federal dollars are federal dollars. I'm not bringing that up. I'm talking about middle income workforce housing and, and rural workforce housing. I'm not even talking about the Affordable Housing Trust Fund. Those are 3 different funds. But between rural workforce housing and middle income workforce housing, there is a gap. And it's very-- and it's completely inequitable. All I'm asking is that the body supports evenly dividing the funds. I think that is fair. And this is-- honestly, it's not a hostile amendment. It's not-- I'm, I'm really not trying to take a bunch of time on this. I'm just trying to say, hey guys, let's slow down. Let's amend this to make sure we have some fairness in this and then let's-- you know, we could address these other issues. I'll-- I'm glad to see that there is a willingness to provide some support for York water system repair, because women in York deserve clean water. And it shouldn't matter that they're imprisoned in York. They deserve clean water because they're human, and we should take care of them. We talk a lot about the Nebraska

State Penitentiary, but there's problems in York, in York, as well, which is why I think with the \$350 million, we should have just repaired the, the places that we have, in York, NSP, and there's other issues at other places. But you wanted to build a new prison and I'm not going to argue that. But anyway, all I'm asking is support from the body to evenly divide the housing funding. I think that is fair, especially when it's clear that if we give \$20 million to rural workforce housing, there will be a \$42.3--

**FREDRICKSON:** One minute.

**McKINNEY:** --million gap. Nobody in here can stand up and tell me that is fair and equitable. So all I'm asking is, let's be fair. Let's have some equity in this place. I know for some people, equity is a word that shouldn't be used. But let's have some equity in funding. And with that, I'll yield the rest of my time. Thank you.

**FREDRICKSON:** Thank you, Senator McKinney. Senator Dover, you're recognized to speak.

**DOVER:** Thank you. I'd like to first of all, thank Chairman Clements for working with various senators in our body, and-- to address their concerns. And those-- not being a list of all of them, but those senators, including Frederickson, Conrad, Wishart, Wishart, Brewer, Wayne, Dungan, von Gillern, and McKinney. I think he did an exceptional job working with them in, in my understanding of trying to find some middle ground to move this budget forward, and, and address some of the concerns that some of those senators may have felt was not addressed in the previous budget. And so I would stand in support of the motion, M01272, to withdraw and substitute AM3071. Thank you. I yield the rest of my time to the Chair.

**FREDRICKSON:** Thank you, Senator Dover. Senator Machaela Cavanaugh, you're recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. Would Senator Clements yield to a question?

**FREDRICKSON:** Senator Clements, will you yield?

**CLEMENTS:** Yes.

**M. CAVANAUGH:** Thank you. OK. Where we last left off in our duo, our dialogue, we were talking about the tribal water system. And you said that we couldn't-- there wasn't a specific amount. And I'm just

curious, how is that going to work if we don't appropriate a specific amount?

**CLEMENTS:** I do-- I have that. That is Section 7 of the amendment, if I can get to that. It's the, the commission, which is the Water Sustainability Fund shall: when ranking and scoring applications for funding prioritize projects for drinking water improvements for any federally recognized tribe whose drinking water is under a no-drink order. And that-- from the U.S. EPA. And so that--

**M. CAVANAUGH:** So is there a fund--

**CLEMENTS:** --that's on page 3 of the amendment.

**M. CAVANAUGH:** Is there a fund-- yeah, I see that. Page 3, lines 11 through 15. So is this coming out of a, a fund that already has money?

**CLEMENTS:** Yeah. It's the Water Sustainability Fund.

**M. CAVANAUGH:** OK.

**CLEMENTS:** It's-- it gets \$11 million a year added to it, and it has more than that now. I don't know the exact balance.

**M. CAVANAUGH:** OK. So the water-- we wouldn't making-- we would not be making it unsustainable if we start a grant program for it.

**CLEMENTS:** There are other uses for it, but the commission then, will prioritize. But we're trying to give them the in-- intent here to make this a high priority.

**M. CAVANAUGH:** OK. OK. Thank you. I appreciate that very much. Now, to Senator McKinney's comments on the housing. There's nothing in here creating any sort of parity about-- between the rural and urban housing delineations. And so he's put an amendment on. Is that something that would be supported, or why was it not included in this amendment?

**CLEMENTS:** In discussions that I had, it wasn't brought up. And I am aware that he has that amendment. The committee allocated the funds differently, and I'll-- I intend to support the committee decision on that one.

**M. CAVANAUGH:** But you're changing how you allocate these other funds because that, that was brought up? I, I guess-- Senator McKinney and I

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brought this up on the floor when we first debated this. I don't know what conversations happened off the mic, but we were not included in any conversations. And we predominantly spoke on the bill.

**CLEMENTS:** The vote of the body will decide that then.

**M. CAVANAUGH:** OK. Well, then who was a part of the conversations that led you to some changes?

**CLEMENTS:** Senator Wayne, Senator Conrad, Senator Wishart, the Speaker, the Governor's Budget Office, myself, Senator Linehan.

**M. CAVANAUGH:** Well, I know Senator Wayne and Senator Conrad both had the housing on their list of important issues.

**CLEMENTS:** There were-- Yeah. There were a lot of issues brought up. Not all of them ended up in this amendment. And people can, that didn't have something in this amendment, can file amendments.

**M. CAVANAUGH:** Who, who wanted to cut the funding for the Mad-- Madonna, then?

**CLEMENTS:** Well, there was a concern about 1 facility that has losses from Medicaid patients, being--

**FREDRICKSON:** One minute.

**CLEMENTS:** --singled out and getting cash reserve funds, and nobody else getting that. So that--

**M. CAVANAUGH:** I think that was-- but that was also for CEDAR. People have the same concern about funding CEDAR with \$5 million. And I don't see CEDAR having a reduction here, just Madonna.

**CLEMENTS:** And CEDARs was ARPA funds. And Madonna is still getting ARPA funds, but they were getting a, you know, an additional \$10 million of cash reserve funds.

**M. CAVANAUGH:** But we're taking ARPA funds from the roads in order to fund the Madonna. Why are we not taking it from CEDAR?

**CLEMENTS:** It was \$2 million that CEDAR is allocated. That was a committee decision.

**M. CAVANAUGH:** OK. OK. Thank you. I think we're about out of time. Thank you, Mr. President.

**FREDRICKSON:** Thank you, Senator Cavanaugh. Senator Erdman, you're recognized to speak.

**ERDMAN:** Thank you, Mr. President. I appreciate it. And good morning. So we're talking about LB1413 this morning. And we've had numerous conversations about the transfer of these funds. And as you know, we talked pretty extensively about the unemployment fund last week. And so, Senator Clements has worked with those who were in opposition of what we were doing and came up with this solution. But I was wondering if Senator Clements would yield to a question.

**FREDRICKSON:** Senator Clements, will you yield?

**CLEMENTS:** Yes.

**ERDMAN:** Senator Clements, I'm going to come straight forward with this. You and I had a conversation about the \$10 million that is being taken back on Madonna. And you explained to me that they're getting \$5 million ARPA money, plus the hospital incentive of \$8 million. Is that correct?

**CLEMENTS:** I was told by their lobbyist \$7.8 million. Yes. Every year.

**ERDMAN:** OK. So, so basically, we've taken, we've taken this back, but we're going to replace that with other funds. So they're not-- they're going to be held-- well, I would call it harmless, in a way?

**CLEMENTS:** Yeah. The \$5 million plus \$3 million of Cash Reserve is \$8 million, plus we anticipate their system will get almost \$8 million more. It would be-- it's \$15.8 million the first year, and then \$7.8 in future years.

**ERDMAN:** OK. All right. Thank you for answering that. I appreciate that. We need to be concerned about those 89 people that Madonna takes care of and, and has in their care. And, and I think we have done that in this transfer. And I think that this proposal that Senator Clements has worked out, and, and those of you who helped him do that, I'm very appreciative of that. I think it's an opportunity for us to move this transfer, LB1413. And then we'll move on to LB1412, and we'll accomplish that one, as well. But I stand against the bracket motion, and I would appreciate the fact that you'd vote red on the bracket and vote in favor of the amendments and LB1413. Thank you.



**FREDRICKSON:** Thank you, Senator Erdman and Senator Clements. Senator Machaela Cavanaugh, you are recognized to speak, and this is your third time on the motion.

**M. CAVANAUGH:** Thank you. My second time and a close. Right?

**FREDRICKSON:** You have this time and your close left.

**M. CAVANAUGH:** Thank you. OK. So, we're on LB1413. I have-- clearly, I have concerns over the budget, more heavily weighted to LB1412, which is the actual transfer of cash from cash funds. It's reckless. It's reckless to raid cash funds for a 1-time padding of the budget. And we are putting money towards things, and I am trying to gain an understanding of the thinking behind it. But so many of the things that I have asked on this budget, the response has been the Governor asked for it. That's not really a good enough answer. I mean, yes, the Governor asked for it. I suppose he presented us with a budget. So of course he asked for it. But, but why? Why is it necessary, and does it align with the priorities of what we, as a governing body, a deliberative body, are trying to achieve? And when I asked those why questions, I'm not really getting any answers. And we're going into a lot of cash funds that do important things, that were created by previous Legislatures to do important things, and we are disregarding the reasons that they were created. And I am sorry, but telling me that the Governor asked for it is not persuasive enough for me to say, oh, OK. Well, then I'm going to vote for that. I'm going to vote for historic sweeping of cash funds for 1-time transfer because the Governor asked for it. And when times are good, that's not when you raid the piggy bank. We need to be forward thinking. We need to think about what our financial solvency is going to be in 2027, because all of the projections are bad. They're bad. So are we going to raid all of our money now, and in 2027, where will we be? Now, some of you may have moved, I don't know, to Florida, Arizona, warmer climates by then. But I intend to be here, raising my family, and I won't be in the Legislature in 2027. I would like to know that I left this place better than I found it, and I don't think that this budget is going to lead us down that path. But we are making changes, and I do appreciate the willingness to discuss changes. I just don't understand how these decisions were made when the people who were standing here in opposition to this bill, repeatedly laying out our very substantive concerns, were not at all inform [RECORDER MALFUNCTION] of what--

**ARCH:** One minute.

**M. CAVANAUGH:** --you decided was a compromise. It's not a compromise when you exclude the opposition. It's just you deciding something else in isolation. So what are we doing? And just handing us this and saying-- and submitting an amendment and saying, this is it, take it or leave it, that's also not how compromise works. I would like to have a conversation about housing. I would like to address housing in this state. The Governor vetoed it last year for rural. You all chose not to override it. And now you are raiding the urban fund and you won't even discuss or entertain parity.

**ARCH:** Time, Senator.

**M. CAVANAUGH:** Thank you.

**ARCH:** Senator Dover, you're recognized to speak.

**DOVER:** Thank you. I just want to address some of the concerns that Senator Cavanaugh had. And just to-- I've jotted just a few things down here. I'll be brief. One thing I just want-- I brought up a little earlier, as you said, the decisions were made in isolation. I just-- I just actually wanted to-- and as I spoke up earlier, I [INAUDIBLE] Chairman Clements working with Senators Fredrickson, Dungan, Wishart, Brewer, McKinney. I mean, I don't know that I get all that I want. I, well, I'll tell you, no, I know I haven't. But we do kind of work together. But, but I would say that I don't believe the decisions were made in isolation. We also-- I was-- I would also say that we have Appropriations Committee that Senator Vargas, Wishart, McDonnell sit on along, along with a number of other of us. And we have robust discussion and we do not go in and raid and without discussion and really the responsibility of making sure we maintain a budget that will fund our state into the future, securely. We sit down with the assistance of Director Patent and Fiscal Office. So this is not any random or, or not thought-out process. We make sure that there was adequate funding moving forward. Again, this is a one-time, I guess, reach in and take out money that, that has been sitting there for many, many years. And I will say this, this money is not our money. This is the taxpayers' money. And it's been sitting there in these accounts for years and in many cases, they're surpluses. The surplus was created because they couldn't fill positions and they had adequate PSL, and they couldn't fill the positions and the surplus built up. And I would say this is, what should we do with that surplus? We should, excuse me, we should give that money back to the people. And that's exactly what we're doing. This, this money that we are building up is to be-- to front-load property tax for-- in many

cases, I speak to property tax really briefly is-- but there are people who are paying more in property tax than they did in their house payment. So I really believe we owe it to the people to get that money back in their pockets and not our pockets to sit there idly and I'll say idly sit there in an account of, in some cases, \$70 million sitting there that hasn't been used for 30 years and only money used was interest. So, I believe the decisions weren't made in isolation. I believe that the Appropriations Committee did their due diligence in researching. We did not take any more. In some cases, we actually reduced what the Governor was asking to take because we felt that we should leave some of those monies in there, that maybe there was too much that was being considered to be taken to, to give back to the people. And I guess I'll just yield the rest of my time to the Chair. Thank you.

**ARCH:** While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR318. Seeing no one in the queue, Senator Cavanaugh, you're welcome to close on your bracket motion.

**M. CAVANAUGH:** Thank you, Mr. President. So I remain in opposition to LB1413. I'm disappointed in how this amendment came to be as it clearly excluded the voices of dissent in the formation of this budget. I am relieved that the women's prison is going to have water. I am relieved that the tribal water system is finally going to have grants to be address, because they don't have drinkable water. These are bare necessities that should have been a top priority and not negotiable for any of us. We should have prioritized above all these other things, making sure that the residents of the state of Nebraska have water. Because even housing is not as important as actually having water. So good job on that one. Not asking questions of why the agency needs so much money for the Medicaid unwind is not doing due diligence. The Medicaid unwind is just a fancy term for evaluating if people should be on Medicaid or not, which is the job of Medicaid to evaluate on a regular basis if people should be on Medicaid or not. If the unwind is costing so much more money than just doing their job regularly would cost, then perhaps that is a place that we should be looking at. What are they doing? Fortunately, we are requiring a report from them if we pass my bill, so maybe we will have an idea. For those that are curious where the black hole of money to DHHS goes, maybe we will have an idea. I don't even understand the Madonna thing because people opposed giving money to Madonna and Cedar, so I'm not really sure what just reducing the amount of money who that appeases at all. So, you know, like if you're going to give them the money,

give them the money or don't give them the money. But reducing it doesn't make any sense to me. I don't even know what the PTSD pilot program is. I'm assuming that maybe it's Senator Wayne's bill from last year. Yeah. OK, so that makes sense. And that's using ARPA funds, which also makes sense because let's face it, our kids were traumatized through COVID. The Supreme Court interpreters earmark \$600,000, I guess-- well, that's good because we don't want to lose the interpreters. But this amendment, it doesn't feel genuine.

**ARCH:** One minute.

**M. CAVANAUGH:** We need to be addressing in a substantive way developmental disability funding, behavioral health funding, all the Medicaid programs that we have, not just the unwind where we're kicking people off of Medicaid and housing, housing, housing. Whether you think it's the job of the state or not to provide housing for Nebraskans, people need housing. People are-- have housing insecurity and we need to do something about it. We can approach it from a million different ways, but we still need to do something about it. Thank you, Mr. President. I would like a call of the house.

**ARCH:** There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay.

**FREDRICKSON:** Record, Mr. Clerk.

**ASSISTANT CLERK:** 18 ayes, 2 nays to put the house under call, Mr. President.

**FREDRICKSON:** The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. All unexcused members are now present. The question before the body is to bracket the bill until April 18, 2024. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**ASSISTANT CLERK:** 4 ayes, 37 nays, Mr. President, on the motion to bracket, Mr. President.

**FREDRICKSON:** The motion is not successful. I raise the call. Mr. Clerk, next item.

**ASSISTANT CLERK:** Mr. President, I have a priority motion. Machaela Cavanaugh would move to recommit the bill to the Appropriations Committee.

**FREDRICKSON:** Senator Cavanaugh, you're recognized to open on your motion.

**M. CAVANAUGH:** Thank you, Mr. President. You know, I am just tired. That's my opening and my close. Thank you.

**FREDRICKSON:** Thank you, Senator Cavanaugh. Seeing no one in the queue, Senator Cavanaugh was recognized to close and she waives closing. The question before the body is to recommit to committee. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

**ASSISTANT CLERK:** 4 ayes, 33 nays, Mr. President, to recommit the bill to committee.

**FREDRICKSON:** The motion is not successful. Turning to the motion to withdraw and substitute. Seeing no one in the queue, Senator Clements, you are recognized to close.

**CLEMENTS:** Thank you, Mr. President. This motion to withdraw and substitute will be getting us to-- ask for your green vote. That will get us to AM3071, which is what we've been discussing, which are the amendments and adjustments to the Cash Reserve and Cash Fund budget bill, LB1413. I ask for your green vote on Motion 1272. Thank you, Mr. President.

**FREDRICKSON:** You've heard the close. The question before the body is the withdrawal and substitution of the committee amendment. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

**ASSISTANT CLERK:** 37 ayes, 1 nay on the motion to withdraw and substitute.

**FREDRICKSON:** The motion is successful. Senator Clements, you are now recognized to open on AM3071.

**CLEMENTS:** Thank you, Mr. President. AM3071 is an amendment to LB1413, which is the Cash Fund transfer and Cash Reserve allocation bill, and that is on the budget appropriation bill handout I gave you. And we've already been through a number of those items. The question about the item 2, Medicaid Managed Care Organization Excess Profit Fund, being

used for reducing Medicaid eligibility, there are over 350,000 people on Medicaid, I believe. And my understanding is that we have to recertify, making sure they all are eligible. And we don't have 350,000 people in HHS. They're working hard to do that. And so I think a large amount of the \$30 million allocation is going to be used for that purpose. And what isn't used, the other handout I gave you was showing some other new expenses that Health and Human Services has. And this transfer of this fund will allow the use of Cash Funds rather than General Funds, which would reduce money to the floor and reduce our budget, increase our expenses. And the behavioral health program, I was given a handout about fiscal year 2023 that they had new appropriations of \$68.8 million, carried over \$35 million, for a total of \$104 million in behavioral health aid program. And their expenditures were \$67.8 million, still leaving \$36.6 million unspent in behavioral health aid. And so we're, we're not trying to eliminate or cripple behavioral health programs. The analysis of those programs showed that there were funds that were not being used. Like a lot of the other Cash Funds, every one was analyzed to make sure we weren't taking so much away that they couldn't perform their annual uses and spend their money. So I still do stand behind the transfers that were made, and think that they were done with a thorough analysis of those funds. The-- so AM3071 would enact the items that are marked in the bill, column, LB1413. And I ask for your green vote on AM3071. Thank you, Mr. President.

**FREDRICKSON:** Thank you, Senator Clements. Seeing no one in the queue, Senator Clements, you are welcome to close. And he waives. The question before the body is the adoption of AM3071. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, record.

**ASSISTANT CLERK:** 35 ayes, 0 nays on the adoption of the amendment, Mr. President.

**FREDRICKSON:** The amendment is adopted. Mr. Clerk, for items.

**ASSISTANT CLERK:** Mr. President, Senator Clements would move to amend AM2698 to 14-- to LB1413 to strike Section 1.

**FREDRICKSON:** Senator Clements, you are recognized to open on the amendment.

**CLEMENTS:** That was a placeholder amendment. I move to withdraw.

**FREDRICKSON:** So, so ordered.

**ASSISTANT CLERK:** Mr. President, Senator Clements would move to amend with FA257.

**FREDRICKSON:** Senator Clements, you are recognized to open.

**CLEMENTS:** That was a placeholder amendment. I move to withdraw.

**FREDRICKSON:** So ordered.

**ASSISTANT CLERK:** Mr. President, I have FA287 from Senator Jacobson with a note that he would wish to withdraw.

**FREDRICKSON:** So ordered.

**ASSISTANT CLERK:** Mr. President, Senator McKinney, McKinney would move to amend with AM26-- excuse me, with AM3069.

**FREDRICKSON:** Senator McKinney, you're recognized to open on the amendment.

**McKINNEY:** Thank you, Mr. President. Again, as I mentioned earlier, I brought AM3069 to even out the funding for housing. When I looked at the numbers for the rural workforce housing and the middle-income workforce housing and cal-- and I got the calculations, if we were to just give 20 to the rural income workforce housing and only 5 to the middle-income workforce housing, there would be a difference of \$42.3 million between the funds, which is inequitable. So all I'm asking is in this amendment is just even it out. So if we have \$25 million for housing, give \$12.5 million to rural and give \$12.5 million to middle. I think that is fair. I don't think that's a big ask. I'm not asking for extra dollars. All I'm asking for is fairness in the dollars that we allocate in our budget. I was disappointed to see that when this sheet was handed out, those adjustments weren't in this sheet. So I brought the amendment. Well, actually, I brought the amendment just in case this didn't happen because me just being overly cautious and sort of, you know, kind of-- not skeptical or paranoid, but I brought the amendment just in case what I thought wasn't going to happen, happened. So all I'm asking is a green vote to support AM3069 to even out the funding for both funds. I think that is fair. Now, if somebody can explain to me that having a \$42.3 million gap between 2 funds that are-- that are devoted to housing is equitable, I'll listen to the argument. I will. I actually do listen on this floor, and I listen to every word everybody says, because I like to learn and I like to, you know, make my arguments after you make your statements. So all I'm asking is that you-- everybody in the body votes green to even out the

funding for the rural workforce housing and the middle-income workforce housing to take 12.5 for rural and 12.5 for middle. I think that is a simple request. It shouldn't be that big of a ask, especially considering the inequity in funding between the 2. Thank you.

**FREDRICKSON:** Thank you, Senator McKinney. Turning to the queue, Senator Jacobson, you're recognized to speak.

**JACOBSON:** Thank you, Mr. President. Well, I appreciate Senator McKinney's comments and the spirit in which he brought the amendment. I am opposed to the amendment, however, and I would argue that if we're going to split dollars equally between Omaha, Lincoln and the rest of the state, I'm game. Let's bring all the dollars that went to Omaha, split it in half, move half of it to rural Nebraska, I'll sit down. Let's move forward. But doesn't work that way. OK. The committee had thoughtfully agreed to give \$25 million to rural workforce housing. That has since been reduced by \$5 million to \$20 million and \$5 million and that's what the-- that's what the recommendation has been. And I'm going to support the committee in their recommendation. Now some would ask why does rural work crossing-- workforce housing need \$20 million? I would say they don't need \$20 million. They probably need \$100 million. But we'll take the 20 to fund what's available coming from the budget. Why is the need so dire in, in rural Nebraska? Well, first of all, let me be clear, having financed a number of lenders over the years, in rural Nebraska, we have a lower household income than Lincoln and Omaha and in Grand Island. When you go to rural Nebraska income, household incomes are lower. Because they're lower, you can't afford as much home. I would also argue when it comes to building housing in rural Nebraska, we don't have all the subs. So a lot of those subs, a lot of the general contractors that come to rural Nebraska to build homes are going to have higher costs, and they're going to pass those costs through. I would also argue that the cost to get materials to rural Nebraska is higher because of location. So the committee looked at all those factors when they made the recommendations that they did. I'm supportive of the \$20 million and the \$5 million. I'm not supportive of doing more than that. And so I would urge a red vote on this committee amendment and support the committee as been-- LB1413, as previously amended so that we can move on. But I would oppose AM3069. Thank you, Mr. President.

**FREDRICKSON:** Thank you, Senator Jacobson. Senator Wayne, you're recognized to speak.



**WAYNE:** Thank you, Mr. President, and I'm OK with going game. Let's start. Let's go even farther and say where the money's collected should stay in the area it's collected because I think Omaha and Lincoln produce little over 2-- actually more than two thirds of our sales tax. So I'm game if we want to go urban versus rural. I don't think people want to take me up on that challenge, because \$600 million going to a canal is rural. So we can-- we can have that conversation. But here's the facts about housing. Housing was passed because of my vote. Senator Stinner, Senator Williams brought this bill. It was-- it was being filibustered. Rural already got a \$30 million jumpstart. We brought a bill the following year for middle-income housing. It was first filibustered, and then we had to bring it back and attach it to another bill. And ever since then, there's always been a \$30 million gap because you had a \$30 million head start. But I think moving forward, it should be equitable. It should be parity when you talk about rural and urban housing. Now, there are other things that are very specific that we will always have to deal with like the canal, like Fort Robinson-- I'm thinking of bills that I did-- like inland ports, like all those things. There is going to be a slight edge to, to rural, but on housing we say it's a statewide issues, the top 3 issues across the entire state. That isn't just a rural issue, it's both. So I think moving forward, at least that was-- and I'm going to talk about the promise that was mentioned on the floor in these transcripts if you go back and read. Going forward, when we passed the middle-income housing, it was Speaker Scheer, Senator Stinner, Senator Williams, myself, Senator Linehan, we were all in a back room. Because if you recall, there was some delays going on because of the-- we couldn't get middle-income housing passed that we were going to be equitable moving forward. Now, it hasn't always been. There will be \$5 million here or some ARPA dollars here. But even in ARPA, we went 20 to Omaha for housing, 10 to Lincoln and 10 to rural. We tried to break it up equitably. I don't think this amendment is going that far. I think it's in the spirit of what we all promised here on the floor going-- when dealing with housing. We're going to try to treat it fairly across the state. And it's been the past practice of this body to try to treat it fairly across the state. That's all I think this amendment does. That's why I'm going to support this amendment. This is something this body committed to over and over and over again. It's our-- been in our budget. It's reflected that. Again, it hasn't been 100% parity, but it sure hasn't been a \$20 million swing except for the initial one which was rural workforce housing. And if you recall, just-- that's where extremely blighted came from because we negotiated that in to get the-- get the bill

passed. Otherwise, rural workforce housing wouldn't even existed. And the next year we came back with middle-income housing. Senator Vargas' bill was filibustered. And then we attached it to my bill after negotiations. And we put, I think, \$20 million in; in addition, another \$20 million that year to rural workforce housing. So you guys are always going to have a \$30 million head start. But moving forward, why not just keep it equal? Nobody's trying to say make up for the initial \$30 million. We're just saying moving forward, keep it equal. I think that is reasonable, well-thought-out compromise that we have been abiding to for the last 3 years. I don't think we need to change it now. And if we do, my fear is that's going to creep into everywhere else, everywhere else where we start this urban or rural divide that I think--

**FREDRICKSON:** One minute.

**WAYNE:** --we've been consciously trying to avoid. Thank you, Mr. President.

**FREDRICKSON:** Thank you, Senator Wayne. Senator Erdman, you're recognized to speak.

**ERDMAN:** Thank you, Mr. President. I was a little surprised by Senator Wayne saying the canal was for western Nebraska, for rural. Because him being a fish whisperer, I would think that he would know that water flows downhill. And so when water comes in the western part of the state, it will eventually wind up in Omaha and Lincoln. So the canal is not necessarily just for rural or western Nebraska. It's for Nebraska. You'll also notice that in Senator Wayne's comments, when he said those senators that helped pass workforce, middle-income, rural housing, he never mentioned my name as being one of those supporters. Because if I had my way, Senator McKinney, if I had my way, I'd take the \$25 million and put it back in the General Fund, because I'm still trying to figure out where it is written in the Constitution that we should build one house. The government should not build any houses. That's for the private sector to do. So I did vote for that transfer and I will vote for it again. But I think building workforce housing, middle-income, affordable, whatever you want to call it, is for someone else to do besides the government. There's going to be a new housing development in Gering, Nebraska, by a corporation from Kansas, nonprofit, who figured out what Jake Hoppe has figured out for years is that he can milk the system and he can get low-income housing, work-- rural workforce housing money. He'll get gap money that pays a difference in what it costs to build a house and what he sells it for.

Then he will get TIF financing so he can collect the taxes for 20 years. And then he will get a 9% reduction in his federal income tax. So I'm disappointed that they got ahead of me, because I think that's what I want to do when I get done with these last 14 days. Most of these people, or a significant number that are in this construction business to build housing are lawyers because they're the ones that have figured out all the loopholes and the advantages to low-, middle-, and affordable-income housing. And they've been taking advantage of it. And so the reason that it's not economically feasible to build a house, it costs too much and the bankers aren't willing to finance those people because it's too risky. And so they let the government finance them because it's OK if the government loses money but not their bank. And so if I were in the banking business, I would want to have low-income, middle-income and affordable housing so I didn't have to take the risk because then those people that buy that house have to finance it somewhere. And it very well could be in their bank. And so I'm in favor of LB1413 and I'm opposed to AM3069. And I, if I could, I would take all the money out of the workforce, affordable, and middle-income housing and put it back in the General Fund. That's where-- that's where it belongs. Thank you.

**FREDRICKSON:** Thank you, Senator Erdman. Senator Dover, you're recognized to speak.

**DOVER:** Thank you. I'd just like to bring up a couple talking points. And I-- and I think being from greater Nebraska, I'd like-- some people may not be aware of this, but basically the rural communities, I don't know if really [INAUDIBLE] rural communities, but those communities besides Lincoln and Omaha, I believe, have experienced a great challenge in locating vendors to do the jobs. And therefore, if you look at the number of units built in Omaha and Lincoln versus communities across Nebraska, like my community of Norfolk, Kearney, Grand Island, I can go on, North Platte, you'll see a significant number if you-- if you actually compared to the population as a percentage of population than you'll see in Lincoln and Omaha. And so I'll say this, that-- so rural has, has not-- was not building the number of houses where Omaha and Lincoln were. It wasn't anybody's fault. It's just they're-- just they started out behind. And so there definitely needs to be a catch-up done. And I think this funding will help to do that. And I also think that if you look at the imbalance, so if you simply look at Omaha and say, well, you know, Omaha needs the same, or Lincoln need the same amount as greater Nebraska, that's, that's really-- isn't really fair. Because what they're not looking at as, as a metro has so much-- has so much more availability to funds on

the federal level. Omaha can request millions and millions and millions of dollars that we can't in Norfolk. And I don't even know that they can in Lincoln. And so there is a huge amount of money that we're not even discussing that is pouring into Omaha that we can't access. So I think really comparing a metro city funding to greater Nebraska really is-- isn't a fair comparison because we are not even discussing the millions and millions of dollars that they can apply from the federal government simply because of their population size that we do not have access to in Norfolk or greater Nebraska. Thank you. I yield the rest of my time to the Chair.

**FREDRICKSON:** Thank you, Senator Dover. Senator McKinney, you're recognized to speak.

**McKINNEY:** Thank you, Mr. President. This conversation has been great. I would like to say that yes, there is housing issues across the state. Yes, there's issues with income and balance. But one fact has been true my whole life. I represent the poorest district in the state, and that's been that way for my lifetime and probably before I was born. We have housing affordability problems in my district. 70% or more of my district is renters, not homeowners. So yes, this is why-- it is partly why I'm supporting this because I believe in homeownership. And I believe that everybody, no matter where you're at, deserves the right to homeownership. We've committed dollars to things I don't think we should have committed to in this Legislature since I've been here. And a lot of it has not-- yes, we got investments from economic recovery, but compared to where other dollars went, it's not even equitable. But I'm not going to start there today. But it is what it is. I'm not asking for extra money. All I'm asking is that we evenly divide the resources that we have for housing this year. As Senator Wayne stated, rural workforce housing had a head start of \$30 million. And then we talk about Omaha being able to request dollars in grants and things like that. The issue is, one, the state of Nebraska does not have, have a housing agency. We don't even have a committee completely committed to housing in the Legislature. There are-- there are many federal grants that the state of Nebraska could go after, not just in Omaha. But because we don't have a housing agency, we don't go after those dollars or we miss out on those opportunities. And I could go on all day about the billions of dollars we miss out every year because we don't have a grants department in D.C. But I'm not going to go there. All I'm asking is for your green vote to evenly divide this money. We could go on all day. And I'm not trying to have a rural/urban divide conversation because it's not about a divide. It is about making sure that we

evenly divide the resources we have to share in this body to urban, not urban, to middle-income workforce housing and rural workforce housing. That is the only ask. And Senator Erdman, the genie is already out of the bottle for dollars going to housing. All I'm asking is for equity. We, we already-- the, the genie's out of the bottle. We're already funding affordable housing in other projects across the state so we can't take that back. But we can do what's right going forward and commit equi-- commit to having a balance of resources going to both places. That's all I'm asking. Nothing else, nothing extra. I don't want to go tit-- tit for tat with everybody in here. I'm just saying let's evenly divide the resources, because I could go all day about some of the comments that were made on the mic about median incomes and disparities all day, because my district probably ranks the worst in all of them. But I'll leave it there and I'll just ask for your green vote. Thank you.

**FREDRICKSON:** Thank you, Senator McKinney. Senator Wayne, you're recognized to speak.

**WAYNE:** Thank you, Mr. President. Colleagues, I just want to kind of-- so for those who think this is just about Omaha, it's not. Lincoln also gets middle-income housing. And I want to actually talk to Sarpy County senators. Sarpy County senators, Senator McKinney has a committee priority bill today, LB840, that will allow Sarpy County and Senator Bostelman and Senator Clements' district, right outside of Lincoln and Waverly, to now qualify for middle-income housing grants. So when you think of that, you're talking the 3 big counties, not just within the cities, but also Cass County and, yeah, Sarpy County and Lancaster County. So this is not truly urban versus rural. And as far as the lack of grants, one, people assume Omaha can go after a lot of federal grants. I will tell you a kind of a misnomer here. It's hard to go after federal grants when the state of Nebraska is not a partner in those grants. It's very hard to coordinate grants for the state of Nebraska. If you don't believe me, I can hand out 2 maps where we are the only state in this area that is white. What I mean by that is, is there's blue, yellow, and other colors around us for grants and designations at the federal level that they got. And Nebraska either didn't apply or they didn't correctly apply, or lastly, they didn't have the enough-- the application didn't have the merit to [INAUDIBLE], get an award. The point of it is, is we do miss out on billions of dollars, and a lot of these workforce housing can go into Norfolk, Hastings, South Sioux City, where there are census tracts that qualify. We just don't go after them. But what we do have control over is the ability to be equitable when dividing our resources.

Housing is a concern. It's a concern across the state. If we start going through this budget line by line and go rural versus urban, rural versus urban, we'll be here all day and it won't be productive. But we're left talking about one issue, one issue in particular that will create some parity between urban, rural and those who are caught in between in the suburbs as far as housing, getting affordable housing, I don't know how much more clear we should be as a body that this is important. And it's not just an important issue for rural Nebraska. It's an important issue for all of Nebraska. So I would ask you to support AM3069. Thank you, Mr. President.

**FREDRICKSON:** Thank you, Senator Wayne. Senator Ibach, you're recognized to speak.

**IBACH:** Thank you very much, Mr. President. I just wanted to chime in and mention that last year my priority bill was Senator Briese's LB249 that spoke to workforce housing. That bill would have allocated 11 or \$10 million to rural and \$10 million to middle. And after lots of discussion, it went through, but then the Governor vetoed it. I think this bill is an attempt to kind of replenish that rural need. As a matter of fact, I'm going down next Friday to Imperial to visit with them. They're doing a ribbon cutting. And I think that the rural folks have made a very, very good attempt at accommodating their needs and, and their ability to pay for those. I would just ask for your support for the rural workforce housing piece of this. And yield my time back. Thank you.

**FREDRICKSON:** Thank you, Senator Ibach. Seeing no one else in the queue, Senator McKinney, you are recognized to close on your amendment.

**McKINNEY:** Thank you. I'll be short. Last year, Senator Ibach's bill, LB249, had an even split, as she mentioned, \$10 million for rural and \$10 million for middle-income. And that's all I'm asking is an even split between the funds. And I ask for your green vote. Thank you.

**FREDRICKSON:** Thank you, Senator McKinney. The question before the body is the adoption of AM3069. All those in favor vote aye; all those opposed vote nay. There's been a request for a roll call vote. Mr. Clerk, please call the roll. There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

**ASSISTANT CLERK:** 26 ayes, 4 nays to go-- place the house under call, Mr. President.

**FREDRICKSON:** The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senator McDonnell, please check in. Senators Bostar and Slama, please return to the Chamber. The house is under call. Senator Slama, please return to the Chamber. The house is under call. Senator McKinney, Senator Slama is missing. How would you like to proceed?

**McKINNEY:** We can proceed.

**FREDRICKSON:** Senator McKinney has allowed us to proceed. There has been a request for a roll call vote in reverse order, Mr. Clerk. The question before the body is the adoption of AM3069. Mr. Clerk, please call the roll.

**ASSISTANT CLERK:** Senator Wishart voting yes. Senator Wayne voting yes. Senator Walz voting yes. Senator von Gillen voting yes. Senator Vargas excused. Senator Slama. Senator Sanders voting yes. Senator Riepe voting yes. Senator Murman voting no. Senator Moser voting no. Senator Meyer voting no. Senator McKinney voting yes. Senator McDonnell voting yes. Senator Lowe voting no. Senator Lippincott voting no. Senator Linehan. Senator Kauth. Senator Kauth not voting. Senator Jacobson voting no. Senator Ibach voting no. Senator Ibach. Senator Hunt voting yes. Senator Hughes voting no. Senator Holdcroft voting no. Senator Hardin voting no. Senator Hansen voting yes. Senator Halloran voting no. Senator Fredrickson voting yes. Senator Erdman voting no. Senator Dungan voting yes. Senator Dorn. Senator Dover voting no. Senator Dorn voting no. Senator DeKay voting no. Senator DeBoer voting yes. Senator Day voting yes. Senator Conrad voting yes. Senator Clements voting no. Senator Machaela Cavanaugh voting yes. Senator John Cavanaugh voting yes. Senator Brewer voting yes. Senator Brandt voting no. Senator Bostelman voting no. Senator Bostar voting yes. Senator Bosn voting no. Senator Blood. Senator Ballard voting yes. Senator Armendariz voting no. Senator Arch voting yes. Senator Albrecht voting yes. Senator Aguilar voting no. Senator Wayne changing from yes to not voting.

**FREDRICKSON:** Mr. Clerk, please record.

**ASSISTANT CLERK:** 23 ayes, 21 nays on the adoption of the amendment, Mr. President.

**FREDRICKSON:** The amendment is not successful. I raise the call. Mr. Clerk, for a motion.

**ASSISTANT CLERK:** Mr. President, Senator Wayne would move to reconsider the vote just taken.

**FREDRICKSON:** Senator Wayne, you are recognized to open.

**WAYNE:** Thank you, Mr. President. I will be brief, colleagues. I'm just looking for one vote. Let me explain again. Senator McKinney has a bill right now that is on the agenda that opens up middle-income housing to Waverly; Sarpy County, outside of Bellevue, the new development that we just put sewers in, Senator Holdcroft, will be available for grants in Sarpy County. This also applies to Lincoln. So Lincoln senators, Omaha senators, Waverly senators, Sarpy County senators, please look at that vote card again and understand what we're doing. We are bringing parity between rural and urban to make sure that we are trying to attack affordable housing throughout the entire state. Thank you, Mr. President.

**FREDRICKSON:** Thank you, Senator Wayne. Turning now to the queue, Senator Jacobson, you are recognized to speak.

**JACOBSON:** Thank you, Mr. President. I just want to remind everyone again, there was a hearing, committee had, had discussions. Committee made a recommendation. Recommendation was \$25 million rural workforce housing. There was a compromise to move \$5 million to middle-income workforce housing. And they agreed to that. And that's what they brought to the floor. Now, if we're going to go piece by piece and dissect the budget and decide what's real and what's urban, let's go. Or we can honor the committee's recommendation and move forward. We could talk all day about all the dollars that flow to Omaha, flow to metro areas, all the grants that are available, all the money that flows there regardless. But we're not-- we don't need to do that. We're talking about \$7.5 million. That's what we're talking about. And we're basically saying that rural Nebraska doesn't need that. And I believe we do. And I believe the committee considered that when they made the recommendation. So I would encourage everyone to not make this a rural/urban divide issue. Honor the committee's recommendation and vote no on this amendment. Thank you, Mr. President.



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Floor Debate March 19, 2024

Rough Draft

**FREDRICKSON:** Thank you, Senator Jacobson. Senator Armendariz has guests, 12 fourth grade students from the Legacy School in Omaha in the north balcony. Please rise and be recognized by your Nebraska Legislature. Mr. Clerk, for items.

**ASSISTANT CLERK:** Thank you, Mr. President. I have a notice of committee hearing from the General Affairs Committee. And I have a motion from Senator Hansen to recess the body until 1:30 p.m.

**FREDRICKSON:** You've heard the motion. All those in favor vote aye. All those opposed say nay. The Legislature is in recess.

[RECESS]

**DeBOER:** Good afternoon, ladies and gentlemen, and 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:** Madam President, there is a quorum present.

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

**ASSISTANT CLERK:** Yes I do. Thank you. Your Committee on Enrollment and Review reports to Select File LB1167, LB1270, LB1095, LB484, and LB852, some of them having amendments. Madam President, I also have an announcement. The Urban Affairs Committee will hold an Executive Session at 2:30 p.m. under the north balcony. 2:30 p.m. under the north balcony. That's all I have at this time.

**DeBOER:** Thank you, Mr. Clerk. Senator Holdcroft would like to recognize 12 students and four teachers in the seventh grade, from Saint Matthew's Catholic School in Bellevue, Nebraska, as well as his wife, Mary Jo Holdcroft from Bellevue, Nebraska. Please stand to be recognized. Thank you, Mr. Clerk. We will proceed to the first item on this afternoon's agenda.

**ASSISTANT CLERK:** Madam President, LB1413. We left off on that bill. Pending is an amendment by Senator McKinney. And Senator Wayne has a pending reconsideration of that amendment.

**DeBOER:** Senator Clements, you're recognized for one minute refresh--fresh on your amendment.

**CLEMENTS:** The amendment is not mine up there.

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**DeBOER:** Sorry. The bill itself.

**CLEMENTS:** The bill. Thank you. LB1413 is the part of the budget this year that transfers funds and allocates money from the cash reserve. And so we, we've made an adjustment when we approved the amendment this morning with some adjustments that we had after the committee amendment. So those are adjustments are in, and I just urge your green vote on LB1413, but I'm not going to be-- I'll be speaking on the amendment that's posting. Thank you.

**DeBOER:** Thank you, Senator Clements. Senator McKinney, you're recognized for a refresh.

**McKINNEY:** Thank you. Madam President, my amendment is an amendment to evenly divide the funding for housing that is being appropriated in the budget this year, \$12.5 million for Rural Workforce Housing, and \$12.5 million for Middle Income Workforce Housing. Thank you.

**DeBOER:** Thank you, Senator McKinney, McKinney. Senator Wayne, you are recognized for a refresh on your motion.

**WAYNE:** My motion is reconsider, reconsider, reconsider. Thank you.

**DeBOER:** Thank you, Senator Wayne. Turning to the queue. Senator McKinney, you're recognized.

**McKINNEY:** Thank you, Madam President. So again, I brought this amendment because I believe that we should evenly divide these funds for Rural Income Workforce Housing, and Middle Income Workforce Housing. We don't have to deep dive into dividing each other based on the locations of our district, whether it's in rural Nebraska or urban Nebraska. This is simply trying to address, address a disparity in the funding. Whether people agree with it or not, if we don't make this change, since 2017, if passed, there will be a \$42.3 million gap in funding, which means there will be \$42.3 more million that went into the Rural Workforce Housing Fund, than the Middle Income Workforce Housing Fund. All this amendment is attempting to do this year-- it's not even trying to address that, because trying to address that would be doing a whole another amendment to send the whole \$25 million to Middle. I'm not trying to do that, because I wouldn't think that's fair, because if we have dollars for housing, let's just evenly divide the, the, the funding for housing. I think that is fair. I know there are some people who don't feel like any money should go to housing, but the cat is outside the bag. We're giving money to housing this

year. The train is already rolling. All I'm saying is slow it down and let's evenly divide the funds. I think that is fair. I'm not trying to mess up anything in Rural Workforce Housing. I'm just trying to make sure that we equitably split this money up for fairness purposes. There's housing needed all across the state. And that's what I think is being lost. Yes, there, there, there's different issues in different places of why housing is being underdeveloped no matter where you're at. There's arguments on both sides. All I'm saying is, let's just evenly divide the funding. I think that is fair. I would ask for your green vote again. We were close last time, and I hope after lunch everybody has some time to think and that we can get there because I think it's very important. Not important for me, not important for Omaha, not important for anybody but the state of Nebraska and the taxpayers to show that this body cares about everybody, no matter where you're at, and we're going to equal-- equitably commit to funding housing. If we're giving up \$25 million for housing, it should be evenly divided. Last year there was a veto. And in that veto, which is ironic, there was an even split, as Senator Ibach mentioned. There was \$10 million going to Rural, and \$10 million going to Middle. So if it was acceptable to pass an even split last year, why isn't that acceptable this year? I would love to hear the case. I'm just saying, if we're devoting \$25 million to housing, let's evenly divide it, and just have some fairness in this place. Thank you.

**DeBOER:** Thank you, Senator McKinney. Senator Wayne, you are recognized.

**WAYNE:** Thank you, Madam President. Colleagues, I'm just waiting for a couple people to get back from lunch. I think after I get done talking, they'll be back from lunch. But I don't know if people know why I got into politics, so I'm gonna tell a quick story. So maybe I said this before, but if he forgot, I'll tell you. So in eighth grade, my government teacher at King Science Center Middle School asked us to pick a project or pick a issue and write to a government official. Well at the time, when we did census, census data, and even in schools, they would always say, list your race. And then they would always say your nationality. And the race, you had to check, check one box. And so me being biracial, I just thought, why should I have to deny one of my parents? It was just the issue. There wasn't an other box, or mixed race box at the time. So I wrote Senator Bob Kerry at the time and through his office they did research, and he sent me a letter back in April 10th, 1994. And it said, thank you for contacting me regarding your request to include biracial categories in census

information forms in the state of Nebraska. I have taken liberty to forward your correspondence to the Nebraska State Legislature, Senator Dan Lynch, District 13 (ironic, my district), at the Capitol. And he provided to go on a little bit more information. But then he provided the tell me that it was a federal law ca-- or regulation called Directive 15. And at the state level, they just kind of followed the federal. So Senator Dan Lynch really couldn't do anything. But we began writing the federal government and talking, and I won't say it was because of my efforts, but within three years, they added the other or biracial, now it's other category, which means you can have more than one race. So part of me thinks it was me. But the reality it wasn't me because probably nobody thought so. But it got me interested in government because there was something that was deeply affecting me personally. And this little kid from Omaha maybe had an opportunity to influence so other kids didn't feel the same thing that I was going through growing up, which was every time I had to fill out a form, I had to deny who I was in some capacity from one of my parents. And I just thought, that is the power of government. That is the power of us being able to help individually. It didn't cost us anything. There wasn't money flying around. It was just making sure regulations and laws worked for people. And that's kind of been a center point of where I've come from as far as policy and why I'm even passionate about being in government. And it all goes back to my eighth grade teacher, Mr. Morrison, who said, if you got this issue, start writing your government officials to figure out how to fix it. And before I graduated high school, it was fixed in the census data information. And again, I don't think it was just me. I think there was millions of kids like me trying to figure out why they gotta check off a box and deny somebody. But that kind of we can all make a difference. And while I'm against the bill that-- or the motion that Senator Ibach put in yesterday, Senator Jacobson said something on the mic that I just thought was powerful, that we all got to remember, that people contacted his office and it influenced him. And that's what we should be. We should listen to our constituents, but we should always go back that government is here to help people, and we should do so by not giving them a handout, but definitely giving them a hand up, saying, hey, when you're down, we can help you, when you make a mistake, we'll help you back. And if we can make your life a little better, we should do so. And that's kind of why it was here. So with that, I think everybody is here now after lunch, if anybody else is in the queue, I would ask you to pull out of the queue. Not yet?

**DeBOER:** One minute.

**WAYNE:** OK. Thank you, Madam President, I think so. That's a--

**DeBOER:** Thank you, Senator Wayne. Senator Machaela Cavanaugh, you're recognized.

**M. CAVANAUGH:** Thank you. We were unclear on if everyone is here, so I'm going to take some time as well. Thank you, Senator Wayne, for sharing that story about how you first got involved in politics. I first got involved in politics before I was born. And I had no choice. Or some might say I was born into it. Because I was not born in Omaha, I was born in Washington, D.C. When my dad was representing Congressional District 2. And he served in this body in the '70s. My sister Maureen [PHONETIC] was born the month before he was elected, and my brother John was born right after we moved back to Omaha. And I am between Maureen and John. So I was born in D.C. at Georgetown Hospital. And that's, that's about it. When Rosalynn Carter passed away, my, my dad found some old photos of my mom, very pregnant with my brother, and Rosalynn Carter. So John has technically met Rosalynn Carter. And another picture of my parents a couple of years earlier at a-- some family event at the White House. And President Carter is holding my sister Maureen, and she had, like, a serious, serious mop of red hair like nobody's business, so it's a really cute, sweet photo that we've had in our family. Just going to check in on Senator Wayne, and we don't know? Keep going. All right. Well, I think I've proven in the past that I can keep talking for an extended period of time. I could keep talking about the budget. I mean, to be honest, I could keep talking about the budget, but I was just taking a page out of Senator Wayne's book. And as I said earlier this morning, I'm not quite-- I'm not quite at 100%. I'm not where I want to be mentally, to be quick to think through the technical side of the budget. But I like to be well versed in the budget. And when I'm asking questions of my colleagues about the budget, I want them to be thoughtful and purposeful. So I should acknowledge that Senator Clements has continued to answer my questions with grace and collegiality. And I appreciate that, because my questions are genuine and sincere. And the budget is an enormous document. And so questions should be genuine and sincere. I am in favor of the motion to reconsider. I guess I'll talk through the technical part here. So MO1275 is the motion to reconsider the vote. So we all will vote, hopefully green. Everyone can vote green on the reconsider. And then we vote on the actual amendment once the reconsider is successful. So you can vote for the reconsider even if you don't support the underlying bill. I think we are ready for that now. Where is Senator Wayne? OK, I think we're ready now? So, if

you are in the queue just to help us make sure we have everyone here, feel free to get out and I yield my time to the Chair.

**DeBOER:** Thank you, Senator Machaela Cavanaugh. Senator Vargas, you're recognized.

**VARGAS:** Thank you. I'll be brief. I support the, the motion to reconsider. I support Senator McKinney's amendment. It's something that we were trying to work on in the Legis-- in the in the Appropriations Committee in the first place. Most importantly, the reason I support both these programs, I want to thank Senator Lippincott and others, is because they're good programs, they work effectively, they're still being led, obviously, by the the Department of Economic Development, and we're simply setting them aside. And we're going to have to make sure we, the dollars get out in the future. But support the amendment, it's good for housing, we have a housing crisis and we have to do something, so equity is good in this space. Thank you.

**DeBOER:** Thank you, Senator Vargas. Senator Ibach, you're recognized.

**IBACH:** Thank you, Madam Chair. I'm wondering if Senator Clements-- I have a couple of those genuine and sincere questions for Senator Clements. Would you yield to a question?

**DeBOER:** Senator Clements, would you yield?

**CLEMENTS:** Yes.

**IBACH:** Thank you, Senator Clements. It's my understanding that urban areas receive funding from the doc stamp program. Is that correct?

**CLEMENTS:** The Affordable Housing Trust Fund does receive funding from the doc stamp of a little over \$16 million a year. It can be used outside of the metropolitan areas, but it's probably mostly used in the metropolitan areas. Yes.

**IBACH:** So \$16 million a year. And that's reoccurring. Correct?

**CLEMENTS:** Yes. From the documentary tax.

**IBACH:** OK. And is there any money left in that account right now?

**CLEMENTS:** The-- yes, there is. The analysis from the Governor's Office showed that they started this year with \$36 million. This, this \$25

million is a transfer from that fund, but they're getting \$16 million. They're getting \$32 million in in this biennium. And it's showing \$5.5 million will still be left in the fund after this transfer.

**IBACH:** OK. Thank you very much. So to that point, I think if we were going to be fair and even, it might be worth pursuing dividing that expense as well, or that income. And that might be something we look forward, forward to in the future. Anyway, I'm still opposed to, Senator McKinney's AM, respectfully, but I do support the underlying bill. Thank you very much.

**DeBOER:** Thank you, Senator Ibach. Senator Jacobson, you're recognized.

**JACOBSON:** Thank you, Madam Chairman. First, let me say that I appreciate Senator McKinney's tenaciousness in this. And let me be really clear. Senator McKinney has done more to help the residents of-- in his district than anyone who's ever served in that role, ever. And to that extent, this is another example of Senator McKinney fighting for his district. And so I applaud him for that. And obviously, Senator Wayne has done the same thing for his district. A difference with Senator Wayne is Senator Wayne's gotten way, way more than he should get. But we're going to try to even that out a little bit here along the way. But, oh, congratulations, Senator Wayne, for all that work over the years. What I want to mention is we had a discussion earlier on a bill where we were asking committee members, why did you change your vote from how you voted in committee? And so I'm going to ask that same question today, because I do know that Senator Vargas voted for a \$5 million transfer and now seemingly is going against the committee vote and asking for a \$12.5 million transfer. So that's more than the \$5 million he signed off on. And I know Senator Armendariz hung in there with the committee vote because she wanted to be consistent with the committee vote. I think we've made it clear that there-- and I also remember a year ago, when there were millions of ARPA money dollars going to Omaha, but it was significantly less than what Senator Wayne wanted. He said, we're being left with crumbs of the millions of ARPA dollars that were going to Omaha. Well, I'm just telling you, this \$7.5 million is crumbs to Omaha, but it's a big deal to rural Nebraska. And to be clear, the Rural Workforce Housing Program is for those communities under 100,000 population, and the Middle Income Workforce Housing Program is specifically for the larger communities, Lincoln, Omaha, Sarpy County. And otherwise, the programs are very, very similar. So I'm just going to urge you again, don't worry about the votes you've traded for some other bill you might have interest in yet here, maybe later today, but

vote for your district. For those of you who are in rural Nebraska, stand in there and vote for your constituents. Vote with the committee because we're going to have a long time getting through budget if we're going to start doing territorial stuff. The committee was clear. They heard the testimony. They looked at how this was going to be laid out. We've already conceded \$5 million, as Senator Vargas asked for. Let's move forward, vote no on the motion to reconsider, and if you do, then we're done. And if that passes, then vote no on AM3069, and then vote for the underlying bill, LB1413. Thank you, Madam Chairman.

**DeBOER:** Thank you, Senator Jacobson. Senator Dover, you're recognized.

**DOVER:** Yeah, one other perspective that I have living in greater Nebraska is, when we talk about Omaha, and I realize the size of Omaha, and it's-- over the years, different communities have merged, etc., and Lincoln also. But I'd like you to understand that in the trust fund, what happens is, say it could be North Platte, it could be Scottsbluff, it could be Kearney, Grand Island, Norfolk, other communities across this great state, that apply for a grant or the money from that fund. And what happens is, there's only so much money and it goes out to, say, this community, that community, perhaps this housing authority, perhaps NeighborWorks, whatever it may be, whoever's applying for those funds in this development, in whatever community may find itself. What happens is then is communities are-- communities are skipped over. So, say Columbus, they say Norfolk may get money for development, but Columbus doesn't or North Platte doesn't. What happens is we're looking at-- we tend to look at it, we have Omaha, and we have Lincoln, then we have everyone else. The problem is, everyone else is spread out in communities across this state for quite a few miles, you know, in between. And that's one reason that we need to make sure that we fund this, because there's a lot more pots it has to get to. And it just doesn't happen because a large set of-- it takes up quite a bit of money from the fund to do a project. And when, when that money is that is allotted, then we have to wait until the next round. So please, everyone needs to understand we need to send this to Greater Nebraska simply because, again, Omaha gets-- has access to millions and millions of dollars that we do not have access to. We couldn't-- we can't apply on the federal level for them because we don't qualify because of their size. Lincoln also have funds available that we cannot get to. And again, there are multiple communities that are applying for this money, and only so much of these grants go out at a time, leaving then that, that next community may has to wait another year to get those. So we really need to get the communities across Nebraska to be funded. And I really believe



that a stronger Nebraska, a stronger Neb-- a greater Nebraska makes a stronger Lincoln and Omaha. Thank you. I yield the remainder of my time to the Chair. Thank you.

**DOVER:** Thank you, Senator Dover. Senator Brandt, you're recognized.

**BRANDT:** Thank you, Madam Chairman. I have a village called Diller, Nebraska. And I don't know whether they were successful, they did apply to this program to build one house in a town of 240 people. What I don't think a lot of people in here realize is the housing stock in rural Nebraska, the majority is older than 1960. A lot of this stuff really needs to be replaced. And we have some real problems out in the rural areas, because as you can imagine, we're many miles from lumber yards. The builders often have to drive an hour or more to get there. It's kind of a fallacy that people think it's really cheap to live in rural Nebraska. It really costs you a lot more. But this is a gung ho community. They're going to get the job done. Any, any time we get a house or a unit built in rural Nebraska, it's either sold or rented immediately. We have a real need in this particular area for workforce housing for people that work in dairies. And I know every rural community is different, but there's about 350, 370 villages in the state of Nebraska. And we desperately need help like this. \$7 million may be crumbs to Omaha or Lincoln, but it's not to rural Nebraska. I would urge you to vote no on the reconsider, and no on M-- AM3069. And those of you in rural Nebraska, think really hard before you vote. Thank you.

**DeBOER:** Thank you, Senator Brandt. Seeing no one else in the queue, Senator Wayne, you are recognized to close on your reconsider motion.

**WAYNE:** Thank you. And so, Madam President, the reconsider vote is to reconsider, and then we go actually vote afterwards. Is that correct? So this is just the reconsider vote. Then we'll vote on the actual amendment again if the if the reconsider is successful. I would ask you to vote green on the reconsider, and green on the underlying bill. And I do think-- I do agree with Senator Ibach on the doc stamp, the, the-- Actually, let's just back up. Next year, there's just needs to be some interim study, this year, I guess, going into next year on all the funding we're doing for education, and housing, and early childhood, and daycare. Like if that's the top four things I would ask the Appropriations and Revenue Committee to look at over there, is just we, we spend a lot of money there. So again, I'd ask for a green vote on the reconsider, and a green vote on AM3069. Thank you, Madam

President. Roll call vote, reverse order, and call of the house. It looks like everybody's here, though, so. Yeah, and call of the house.

**DeBOER:** Thank you, Senator Wayne. There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye, all those opposed, vote nay. Record, Mr. Clerk.

**ASSISTANT CLERK:** 27 ayes, 4 nays to put the house under call, Madam President.

**DeBOER:** The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senator Brewer, please check in. Senator Hansen, the House is in the call. All unexcused senators are now present. There's been a request for a roll call vote in reverse order. Mr. Clerk, please call the roll in reverse order.

**ASSISTANT CLERK:** Senator Wishart? Senator Wishart voting aye. Senator Wayne voting aye. Senator Walz voting aye. Senator von Gillern voting aye. Senator Vargas voting aye. Senator Slama voting no. Senator Sanders voting yes. Senator Riepe voting yes. Senator Raybould voting yes. Senator Murman voting no. Senator Moser voting no. Senator Meyer voting yes. Senator McKinney voting yes. Senator McDonnell voting yes. Senator Lowe. Senator voting no. Senator Lippincott voting no. Senator Linehan voting yes. Senator Kauth voting no. Senator Jacobson voting no. Senator Ibach voting no. Senator Hunt voting yes. Senator Hughes voting no. Senator Holdcroft voting yes. Senator Hardin voting no. Senator Hansen voting yes. Senator Fredrickson voting yes. Senator Erdman voting no. Senator Dungan voting yes. Senator Dover voting no. Senator DeKay. Senator Dorn voting no. Senator DeKay voting no. Senator DeBoer voting yes. Senator Day voting yes. Senator Conrad voting yes. Senator Clements voting no. Senator Machaela Cavanaugh voting yes. Senator John Cavanaugh voting yes. Senator Brewer voting no. Senator Brandt voting no. Senator Bostelman voting no. Senator Bostar voting yes. Senator Blood voting yes. Senator Ballard voting yes. Senator Armendariz voting no. Senator Arch voting yes. Senator Albrecht voting yes. Senator Aguilar voting no.

**DeBOER:** The reconsideration motion--

**ASSISTANT CLERK:** Excuse me, Madam President, 27 ayes, 20 nays on the motion to reconsider.

**DeBOER:** The reconsideration motion is successful. The next vote, colleagues, will be on the amendment. I raise the call Senator McKinney, you are now invited to open once more on AM3069.

**McKINNEY:** Thank you, Madam President. AM3069 is just evenly divide the housing resources that we're appropriating this year between the Rural Income Workforce Housing Fund and the Middle Income Workforce, Workforce Housing fund, \$12.5 million going to one, and \$12.5 million going to the other. Thank you.

**DeBOER:** Seeing no one in the queue, Senator McKinney, you are recognized to close on your motion. Your amendment, excuse me, Senator McKinney waives. Now, the question, colleagues, is the adoption of AM3069 to LB1413. There's been a request for a roll call vote in reverse order. Mr. Clerk, please call the roll in reverse order.

**ASSISTANT CLERK:** Senator Wishart voting yes. Senator Wayne voting yes. Senator Walz voting yes. Senator Von Gillern voting yes. Senator Vargas voting yes. Senator Slama voting no. Senator Sanders voting yes. Senator Riepe voting yes. Senator Raybould voting yes. Senator Murman voting no. Senator Moser voting no. Senator Meyer voting no. Senator McKinney voting yes. Senator McDonnell voting yes. Senator Lowe voting no. Senator Lippincott voting no. Senator Linehan. Senator Kauth voting no. Senator Jacobson voting no. Senator Ibach voting no. Senator Hunt voting yes. Senator Hughes voting no. Senator Holdcroft voting yes. Senator Hardin voting no. Senator Hansen voting yes. Senator Halloran. Senator Fredrickson voting yes. Senator Erdman voting no. Senator Dungan voting yes. Senator Dover voting no. Senator Dorn voting no. Senator DeKay voting no. Senator Doer voting yes. Senator Day voting yes. Senator Conrad voting yes. Senator Clement voting no. Senator Machaela Cavanaugh voting yes. Senator John Cavanaugh voting yes, Senator Brewer voting no. Senator Brandt voting no. Senator Bostelman voting no. Senator Bostar voting yes, Senator Bosn. Senator Blood voting yes. Senator Ballard voting yes. Senator Armendariz voting no. Senator Arch voting yes. Senator Albrecht voting no. Senator Aguilar. Senator Aguilar? Voting no. 25 ayes, 23 nays on the adoption of the amendment.

**DeBOER:** The amendment is adopted. Mr. Clerk, for the next item.

**ASSISTANT CLERK:** Madam President, Senator Hansen would offer AM3115.

**DeBOER:** Senator Hansen, you are recognized to open on your amendment.

**HANSEN:** Thank you, Madam President. I just dropped this amendment literally like 20 seconds ago. And so I don't have anything prepared. But this was what we mentioned, and Senator Conrad had an amendment that she pulled earlier when it comes to the, the removal of the \$7 million from the State Unemployment Fund, and then maybe what we can do for the business owners of the state of Nebraska, since we are moving that money that they put-- that they contributed to over the years. We sat down with the Department of Labor, worked with them. They helped us craft this amendment. I was going to put it out there and see what the, the, the body felt about it. I think it's very reasonable, and I think it's a way to help out the business owners and also the Department of Labor. So there's-- in essence, there are two things-- Give me a copy of that. There are two things this amendment will do. Right now the, the, the commissioner can only lower the rate of the unemployment tax a certain amount. He has a floor of 0.70. This will bring it down to 0.50, so now he has the ability to lower the, the tax rate that goes to the unemployment fund if he sees-- if he-- if he feels like he needs to, like there's too much money being put in the fund, he can lower it down to hopefully draw down some of those funds, and so people can actually use them up. This is something that he-- that he has actually done the last four years. He's actually obligated to keep it at 1.0, but he's actually gone down to .70 the last four years. That's-- but that's the lowest he can go to help lower that rate and and draw down those-- the fund for the business owners of Nebraska. So this will actually allow him to actually lower that a little bit more. And then also the other thing that it does, it actually almost gives a 5% unemployment tax holiday. And so right now, and when you pay your unemployment tax, roughly about 95% of that goes towards the federal part, 5% goes towards the state. That's the one that we drew all that money out of. So for this business owner of the state of Nebraska, we're saying we're going to give you a five year holiday at-- for-- so you're going to pay 95% of your unemployment tax, which would then justify us removing some of that money from the state unemployment fund. So, in essence, that's what it does. I discussed this with Senator von Gillern, and I discussed it with the Department of Labor. And so I think this would be a good thing that we can do to help make up for taking out all those funds out of the Unemployment, the State Unemployment Fund. So, I'd be willing to answer any questions the best that I can. So I just want to leave it at that, and then kind of see what everyone thinks about it. So thank you, Madam President.

**DeBOER:** Thank you, Senator Hansen. Turning to the queue, Senator Conrad, you are recognized.

**CONRAD:** Thank you, Madam President, and good afternoon, colleagues. I want to thank Senator Hansen for bringing forward this amendment, and I know that people are working to review it and get up to speed. Just as a general point, we had a significant amount of debate about the State Unemployment Insurance Trust Fund and the proposed transfers thereto in the budget on General File. I was proud to bring forward an amendment to address that and stop that impermissible sweep. It had broad support from the Lincoln, Omaha, State Chamber and the Nebraska AFL-CIO, an unusual con-- confluence of different, stakeholders in the business and labor community coming together to say, wait a minute, this is not what this fund was set up for. This is not for its intended purposes. This is not a garden variety cash fund that can just be swept willy-nilly for various and sundry purposes. But recognizing there were a lot of questions about how the fund was operating, I know Senator Hansen and myself and other senators have continued dialog with the Appropriations Committee, the administration, the business community, and labor interests to figure out if there was a way to perhaps mitigate some of the impacts in the short term for this budgetary cycle, and to ensure that all parties were using the flexibility afforded to them under existing law in the authorizing statutes for the Suit Fund to make sure that once we take care of a backstop for unemployment purposes, that additional funds available within that context are going out, as the Legislature intended, for workforce development, for job training, for those kinds of purposes, as was originally intended. It seems that that perhaps even very worthy applications that have been put forward for draw down and utilization of those funds had not been successful recently. So I know that Senator Hansen is trying to find a way forward on this issue. I know from a principled perspective I don't like the idea of a sweep or shift on these funds without particularly a public hearing or a statutory change. I think people are working in good faith to try and learn more about the program and move forward in the short term, but I plan to introduce an interim study to continue the conversation beyond the budgetary debate, wherein we cannot effectuate ongoing statutory changes to see if we do need to provide any additional flexibility or authority to bring down the fees, if the fees are too high and not being utilized as intended. As we debated and discussed on General File, we should address that, and we should bring those down if that's warranted. However, I think that we'll need to do that over a longer period of time than we have before us on Select File

debate, so I wanted to single-- signal out there are ongoing conversations about what is available and authorized under the existing statute. We need more information about how those applications are working, what criteria is being utilized, what is going out--

**DeBOER:** One minute.

**CONRAD:** --as is-- thank you, Madam President-- authorized and intended. And we need to continue that dialog beyond the short term budget debate as well. Again, this is an issue where business and labor are coming together. We're saying let's ensure fidelity to these funds. Let's also ensure, in addition to fidelity, that these funds are being utilized to their best and highest purpose to advance our shared workforce needs. And if they are not needed, let's bring those fees down on employers, those taxes on businesses as soon as possible. That's something that we can all agree upon. I might have some more questions as as we move forward, but I want to flag that in regards to this amendment. Thank you, Madam President.

**KELLY:** Thank you, Senator Conrad. Senator Dungan, you're recognized to speak.

**DUNGAN:** Thank you, Mr. President. Colleagues, I rise today. I think in, curiosity about AM3115. I think it's good we can continue the conversation about the concerns we have with regards to the sweeps pertaining to the State Unemployment Insurance Trust Fund. You may recall part of the discussion we had about this on General File was not, from my perspective at least, whether or not we should be doing this, but whether or not we even can do this. And a big part of that centered around whether or not the money that is being charged to him by employers, or to employers, rather, for this is a tax or a fee, and whether or not this is in fact a tax versus a fee, I think has a significant impact on whether or not we as a Legislature have the authority to move that money from one fund into another. I was wondering if Senator Hansen would yield to a quick question or two.

**KELLY:** Senator Hansen, will you yield to a question?

**HANSEN:** Yes.

**DUNGAN:** Senator Hansen, I'm learning about this as I go, so I apologize if I'm asking kind of a dumb question here. My understanding from your intro is that the Department of Labor has the capability

currently to lower the fee that businesses pay into the State Unemployment Insurance Trust Fund. Is that the case?

**HANSEN:** Correct. Yep. It'd be based on the yield factor. That was a 0.70 yield fact that he cannot go below.

**DUNGAN:** OK. So there's a-- there's a baseline. But beyond that baseline that money can still be moved around depending on what the Department of Labor chooses. Is that right?

**HANSEN:** I-- that, I, I, I think so, but I can-- I can double check just to make sure if-- when I'm off the mic.

**DUNGAN:** OK. Because you said that that's actually happened over the past four years is that fees been reduced, is that correct?

**HANSEN:** Yes. Yes. So he's lowered the yield factor and how much, yes, they can impose upon business owners, but they can't go any below that. He has a floor that has to meet.

**DUNGAN:** OK. Thank you. Thank you for answering my questions. The reason I think that's pertinent, colleagues, is if this money that was being charged to businesses was a tax, there would not be the ability of the Department of Labor to lower that on their own. That would be an unconstitutional delegation of authority to the Department of Labor. We set taxes and we determine as a Legislature how those taxes should be charged and collected. The-- by virtue of the fact that the Department of Labor, it sounds like, has the flexibility to modify that fee, at least within a certain range, granted, they can't go below that certain percentage, but they're allowed to modify what that is. That makes this a fee. And by virtue of this not being a tax that is collected for the purposes of general revenue, but rather a fee that is being allocated to a specific special trust fund, the State Unemployment Trust Fund, I think makes this problematic and potentially unconstitutional. We as a Legislature only have the authority to move from one fund to another, taxes. Our, our, our statutory ability has to do with taxes, and what we can't and can't move around. Senator Conrad did a very good job, I think, of highlighting, and I think she probably will do so again later, with regards to the difference between the State Unemployment Insurance Trust Fund and a normal cash fund. As I delineated on General File, there's a separation between a special trust fund and a cash fund. The trust fund, which is what this statute specifically says is money being held in trust for a specific purpose. So, colleagues, we could

get into a long conversation about whether or not we should be having this quote unquote cash sweep. But I think the real conversation we should start with is the entire idea of whether or not we even can. By virtue of the fact that this is, in fact, a fee and not a tax, I think it puts us in a situation where we do not have the ability as a Legislature to move that money around, given that it was collected as a fee for a specific purpose held in trust. And so I would encourage my colleagues to at least take pause in supporting this transfer as a whole. And so I do appreciate Senator Hansen's amendment, insofar as it continues that conversation, I think it goes towards the larger conversation that we need to be having moving forward about whether or not this is a fee that our--

**KELLY:** One minute.

**DUNGAN:** --business community. Thank you, Mr. President. A fee that our business community shouldn't be essentially having to pay if we're not using it. And I think we need to have that conversation moving forward, because I've spoken with-- spoken with enough members of our business community to know that this is something we should be looking at. But the underlying question is, can we do this transfer from the State Unemployment Insurance trust fund, and, colleagues, it sounds like, by virtue of the fact that, yet again, this is a fee, I simply don't think we can. So I urge caution in supporting that. And I'm looking forward to having more of this conversation. Thank you, Madam President.

**DeBOER:** Thank you, Senator Dungan. Senator Riepe, you're recognized.

**RIEPE:** Thank you, Madam President. As Chairman of the Business and Labor Committee, I support AM3115, if legal, as it's pointed out, as a reduction from the seven to the five. Given the fact that within the, the Labor Department, we have had over the years, about the last 15 years, an excessive amount of funds that are available. I think we have two questions that we need to address. One would be the one that's pointed out by Senator Dungan that says, is it a tax or a fee? We need to get that clarification. And we also need to get the clarification, is it a trust or is it a cash fund? If it's legal, it's certainly something that we should get back to our Nebraska business community because it would be very friendly and very welcome. Thank you, Madam President, I yield my time.

**DeBOER:** Thank you, Senator Riepe. Senator von Gillern, you're recognized.



**VON GILLERN:** Thank you, Madam President. I'm scratching out some notes here quickly, so forgive me if this is a little bit fractured. I'm trying to catch up with Senator Hansen here. I've got a-- I made-- I did some homework last week after talking about the potential sweep of the funds and what that meant. And I'm not-- I don't want to get into the discussion, and frankly, I'm not up to speed enough on the legality of that and the fees versus funds and those kinds of things. But I just want to give some real life examples of what this looks like for a business. So I called the, the current owner of the business that I used to own and operate, and talked to their CFO to find out what this really looked like. And that business has about 100 employees, about \$2 million in payroll annually. And last year they paid \$150,000 in state unemployment insurance premiums. They have \$170,000 in reserves. And what that means is, for example, if you-- if you had homeowner's insurance or car insurance and you were insuring yourself, they-- the unemployment insurance world believes that \$170,000 would satisfy all of your obligations. So if you run that math and essentially this company is paying 88% of their reserves every year. So obviously, like all insurance that's going to help other industries and other companies that, that have exceeded what their reserves are, but that's kind of an insane number. None of us would want to do that with our homeowners or auto insurance. There's-- if you look this up, there's a-- there's a lot of math here. There's an experience factor, and that is-- that rating comes from your history as an employer of how frequently do you lay people off? How frequently do people tap into unemployment insurance from your business and draw out of that? The company that I was with previously has a very low experience factor. It's 0.52, which means that they pay 52% of the first \$9,000 a year on every employee. There are 20 different categories. The lowest category is zero, and the highest category is 5.4%. Construction gets a special rating for new employers, and that can vary from 1.25 to 5.4%. So it, it's kind of a weird world. There's a lot of, a lot of algebra involved in, in arriving at the numbers. But what I want-- what I want to stress is a couple of things. Number one, there is no fiscal impact to, to this change. And number two, because of this change going forward, the business community and, and, and I, speaking on myself, can support the sweep of the funds to do what the Appropriations Committee is trying to do. And knowing that the fees will be more reasonable going forward, that they'll no longer collect fees beyond what need to be collected in order to keep the, the fund solvent and upright is a great message to send to the business community. So I appreciate Senator Hansen's work on this and, trust that, that the support of the

floor will give a green light on Senator Hansen's LB3115 and also on the appropriations bill, LB1413. Thank you, Madam President.

**DeBOER:** Thank you, Senator von Gillern. Senator Clements, you're recognized.

**CLEMENTS:** Thank you, Madam President. I first of all, want to remind you that I read a letter from the U.S. Department of Labor that it was OK for us to transfer the funds from the State Unemployment Trust Fund because that's state dollars, not federal dollars. And so I stand by that being a proper transfer. And on this question, would Senator Hansen yield to a question?

**DeBOER:** Senator Hansen, would you yield?

**HANSEN:** Yes.

**CLEMENTS:** Thank you, Senator Hansen. The concern I have is that the transfer in the budget bill now is \$70 million, which would leave about \$12 million at the end of fiscal year '25, June, 30th of 2025. Will this reduction-- and so we're still going to be collecting money into this fund, will this reduction still allow for that much money to remain in the trust fund to \$70 million?

**HANSEN:** Yeah. But this-- we're not touching what's currently going to be left over in the fund.

**CLEMENTS:** When will the reduction in the collections start?

**HANSEN:** '25 through '29.

**CLEMENTS:** Fiscal year '24-25? OK, that fiscal year starts July 1, 2024. So there'll be one year of reduction. How much reduction in transfers to this fund will be-- will there be in one year?

**HANSEN:** It's difficult to say since they decide it-- they figure it out every year based on payroll and number of employees. And so they figure out the total number of money that they're going to end up collecting. Then they set the yield factor. It's a it's kind of a complicated formula, and we weren't trying to mess with the formula. We're trying to keep it as simple as we possibly could. So the amount of money that they're going to be collecting based on the formula that they again do, the yield factor on, we're reducing that by 5%. So the amount of money that the employers would pay into this would decrease now by 5% reflective of, of what we did with the state fund.

**CLEMENTS:** So there still will be some funds coming in.

**HANSEN:** Yes.

**CLEMENTS:** But it'll be just decreasing. Thank you--

**HANSEN:** Yes.

**CLEMENTS:** --Senator Hansen. My calculations were that, after this transfer, if the traditional revenues were coming in, we would still leave \$12 million in the state unemployment trust fund, even if we don't receive any more in this next fiscal year, that was projected to be \$3.3 million. And, that would still make our transfer that we're, we're doing in this bill sustainable and funded. So I will support AM3115 as the funds are there. And I also have said that I'll support reducing the collections which have not been used for unemployment purposes, because we have another fund that is sufficient. Thank you, Madam President.

**DeBOER:** Thank you, Senator Hansen and Senator Clements. Senator Machaela Cavanaugh, you're recognized.

**M. CAVANAUGH:** Thank you, Madam President. Oh, I'm so torn. I really like what we're trying to do here with AM3115, but I also echo some of the concerns that Senator Conrad brought up about having a hearing and just more fully understanding what the implications of this would be. And I think I, too, want to look at all of our fees that we are charging into lots of cash funds over the interim, and I think we should bring bills next year that are really looking to take those down. I don't know, I'm just very torn. I appreciate Senator Hansen bringing this. I did tell him if he brings it again next year, I would co-sponsor it. But I just-- I feel like as much as I talk about the proper process, that I am probably going to be present not voting, but it's going to be a painful one for me, because eliminating fees on the floor is something I really like, and I appreciate Senator Hansen bringing this today, and I appreciate people engaging in the conversation about it again. But I am, like, literally wringing my hands over here. OK. I'll yield the remainder of my time. Thank you, Madam Chair.

**DeBOER:** Thank you, Senator Machaela Cavanaugh. Senator Dorn, you're recognized.

**DORN:** Thank you, Madam President. Would Senator Hansen yield to a question?

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**DeBOER:** Senator Hansen, will you yield?

**HANSEN:** Yes.

**DORN:** And I apologize I didn't talk you-- talk to you ahead of time.

**HANSEN:** Well, I apologize for springing this on you right now, so.

**DORN:** OK. Help me out a little bit here, and maybe Senator Clements might have to chip in or somebody. When Senator Albin-- not Senator, when Director Albin came in front of us and talked. We have this state fund, which is what we've been talking about all the time, \$78 million or roughly that amount. And we were going to pull \$70 million back or whatever. And somebody on the floor, and I can't remember, trying to remember who it was, made the comment that this fund was set up like 30 years ago, and we've never grown out of it. Now, let me finish my question first. The other fund, the federal fund, is over \$500 million as we sit here today. Director Albin specifically talked about, and I don't remember the exact number, in the last three years, never have we used more than \$130-40 million. My question to you is, why do we even have this fund? Why don't we get rid of it? I don't know why we're sitting here talking about let's put it down to this level or this level. I think we ought to get rid of the whole thing.

**HANSEN:** That's originally was our intention. Senator von Gillern and I were talking about this. And so upon further investigation and talking with the department, even if you get rid of the state fund, A, there'll be some money still left in there with to figure out what to do with, right? As-- like--

**DORN:** We can-- we can-- we can get rid of that, though.

**HANSEN:** Yes.

**DORN:** Don't worry about that.

**HANSEN:** You could. But if you get rid of it, it won't change the tax rate or any of that kind of stuff at all, right? And so-- because it kind of all gets collected the same, and then distributed a certain way. So from my understanding, if you can get rid of the state fund, it's not going to change the tax rate on the business owner. And so that might be something we might address next year. I didn't want to get too crazy and start limiting funds, you know, without a lot of due notice and a hearing like, you know, Senator Cavanaugh said. So, that might be something we can maybe even look at doing next year possibly.

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**DORN:** Well, Senator Riepe's sitting right there in front of you. It'd be nice if his committee started addressing some of that situation, because I-- it-- and maybe my numbers are a little bit off or wrong, but if we have had this for 20 plus years, have never used funds out of it, and maybe I'm wrong, maybe somebody needs to correct that, but that's what I thought I heard the other day here on the floor. If we've never used funds out of it, then why do we have it?

**HANSEN:** I think initially when it was set up, they did use some funds out of it. But from my understanding since then little to none has been used. So you're--

**DORN:** Since then.

**HANSEN:** --mostly correct. Yeah.

**DORN:** Yeah.

**HANSEN:** And so we are having a fund being, you know, being taxed on the people of Nebraska that we're not really using, and so.

**DORN:** Well, it's back to what some other senators have talked about here on the mic in the last few days, or as we've discussed the budget, about how we are drawing out of some funds, are not growing out of some funds. I think it's, it's, it's also on us, then, to have a fund set up there that we have \$70 million in that nobody's using, that's just sitting there basically. And we use very, very little out of it. Now, if there's a reason for it, or if there's a, I call it a backdrop so that we have to cover federal funds or something like that. But Director Albin specifically said that we have over three years of usage in the federal amount of this, or the federal part of this program and that-- why then do we even have this other one? Twenty years from now, I may, somebody may say, well, Senator Dorn and Senator Hansen got rid of that, you know, back in 2024 or something. But right now, today, I don't see why we need it. So thank you very much.

**HANSEN:** Yep.

**DORN:** I yield my time.

**DeBOER:** Thank you, Senators Dorn and Hansen. Seeing no one else in the queue, Senator Hansen, you're welcome to close on your amendment.

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**HANSEN:** Thank you, Madam President. I, I do apologize for kind of bringing this up. We tried to keep this as simple as we possibly could, and not change formulas that they're currently using to figure out the tax rate and yield factors. So, we thought this was the best way and the simplest way. And then maybe even next year, we can kind of like what Senator Durbin said and others, maybe address the state fund a little bit more if we need to. But for now, I just wanted something simple and easy that the taxpayers, business owners of Nebraska could benefit from with our actions on the state unemployment fund and taking some of the money out of there. So, like I said before, this will just change the yield factor to .7 down to .5, so that way it gives a commissioner some leeway to lower that. If we're having a lot of money built up into that fund, he can lower that a little more to kind of give-- kind of relieve the pressure valve on the business owners in Nebraska, and also then give almost like a 5% tax holiday for the business owners in Nebraska on their unemployment tax. Thank you, Madam President.

**DeBOER:** Thank you, Senator Hansen. The question before the body is the adoption of AM3115. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

**ASSISTANT CLERK:** 39 ayes, 0 nays on the adoption of AM3115, Madam President.

**DeBOER:** The amendment is adopted.

**ASSISTANT CLERK:** Madam President, I have nothing further on the bill.

**DeBOER:** Senator Ballard, for a motion.

**BALLARD:** Madam president, I move that LB1413 be advanced to E&R for engrossing.

**DeBOER:** Colleagues, you've heard the motion. There's been a request for a machine vote. All those in favor vote aye; all those opposed vote nay. Have you all voted that care to? Record, Mr. Clerk.

**ASSISTANT CLERK:** 42 ayes, 3 nays on the advancement of the bill.

**DeBOER:** The bill is advanced. Mr. Clerk, for the next item. Mr. Clerk for some items, please.

**ASSISTANT CLERK:** Thank you, Madam President. Your Committee on Enrollment and Review reports LB851, LB877, LB998, LB1118, LB1143,

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LB1162, all to Final Reading. I have amendments by Senator Riepe to 11-- LB1188, and a resolution, LR332 by John Cavanaugh. It'll be referred to the Executive Board. That's all that I have, Madam President.

**DeBOER:** Thank you, Mr. Clerk. We will proceed to the next item.

**ASSISTANT CLERK:** Madam President, the next bill is Select File LB1412. I do have an Enrollment and Review amendment.

**DeBOER:** Senator Ballard for a motion.

**BALLARD:** Madam President, I move the E&R amendment to LB1412 be adopted.

**DeBOER:** Colleagues, you've heard the question. All those in favor say aye. All those opposed say nay. They are adopted. Next amendment, Mr. Clerk?

**ASSISTANT CLERK:** Madam President, Senator Hughes would move to withdraw AM2932, and substitute AM2986.

**DeBOER:** Without objection, so ordered. Senator Hughes, you're recognized to open on your amendment.

**HUGHES:** Thank you, Madam President. The city of Seward has been planning to replace their aging wastewater treatment plant since 2009. They designed a new facility in 2019 and planned to start construction in 2021, but the pandemic happened, delaying the project. The project that was once going to cost 11 million is now \$32 million. Congress passed the American Rescue Plan Act in response to the pandemic and to provide states with money through the state and Local Fiscal Recovery Fund Program. The intent of this program was to help local communities pay for investment in drinking water and wastewater infrastructure. We used \$20 million in ARPA funds in 2022 to assist the City of Lincoln in developing a new source of drinking water. We followed this with another \$177 million last year. In 2022, we allocated \$20 million in ARPA funds for a project to pretreat wastewater at a meat processing plant in North Platte. I will note that the city of Seward requires businesses locating within the city to pre-treat their wastewater at their cost. Last year, we also appropriated \$10 million for a sewer project in Sarpy County. The city of Seward explored every possible grant, program and funding source available. They did not qualify for any of the existing programs. Knowing of Seward's need and the fact that our state had-- still had unallocated and unspent ARPA funds that

Congress gave Nebraska for exactly these types of projects, I introduced LB1205 to provide the city of Seward with up to \$20 million in unused ARPA funds for their wastewater project. This would nearly bridge the gap between \$11 million that they had originally budgeted for, and the \$32 million price tag today. The city of Seward also worked with Congressman Flood to secure a \$1 million earmark in the recently passed spending bill. The city of Seward and Congressman Flood asked for far more than \$1 million, but because Congress had already spent-- sent billions of dollars to states for local drinking water and wastewater projects, they were only given \$1 million. I introduced AM2986 to transfer \$9 million in funds from the Site and Building Development Fund to the Critical Infrastructure Facilities Act for this project. Sorry, it's 10 million. \$10 million would get the city of Seward to half of the \$20 million they need. The city of Seward has already spent \$1.4 million on the design of its wastewater treatment facility. An investment in a wastewater facility will have tremendous impact on the ability of the city of Seward to afford this project, and it will have an outsized impact on the sewer rates that nearly 8,000 residents of Seward will have to pay for for the next 40 years. This \$10 million investment will help Seward con-- continue to grow, while remaining compliant with the wastewater regulations. The city of Seward, and Seward County in general, are fast growing communities that support a large manufacturing and ag processing sector. Seward will soon be home to a new agricultural processing facility that will generate an estimated economic impact, exceeding a quarter of \$1 billion annually. I can't speak to the details of this project, as it is not public yet. However, in order for the city of Seward to continue to grow and bring more facilities like the one I just mentioned, it's critical that they proceed with the construction of their planned wastewater treatment facility. I appreciate the Appropriations Committee's hard work on the budget, and I appreciate the fact that they worked to accommodate everyone's request, and that they could only grant so many. Colleagues, I urge you to adopt AM2986 and I ask for your green vote. Thank you Madam--

**DeBOER:** Thank you, Senator Hughes. Senator Machaela Cavanaugh, you're recognized.

**M. CAVANAUGH:** Thank you, Madam President. Would Senator Clements yield to a question?

**DeBOER:** Senator Clements, will you yield?

**CLEMENTS:** Yes.



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**M. CAVANAUGH:** Senator Clements, if we adopt this amendment, where will-- how will that factor into the overall budget?

**CLEMENTS:** I believe this is an ARPA request? Is that-- is that what this is?

**M. CAVANAUGH:** Yes.

**CLEMENTS:** It's a request for ARPA funds, which-- what we have in the committee amendment allocates all the ARPA funds and-- somewhere they would-- we don't have any more ARPA funds left. The potential would be the, the, the only number that's that big is the Department of Transportation Roads Operations Fund if ARPA.

**M. CAVANAUGH:** OK. Thank you, Senator Clements. Would Senator Hughes yield to a question?

**DeBOER:** Senator Hughes, will you yield?

**HUGHES:** Yes.

**M. CAVANAUGH:** Senator Hughes, does your amendment, and I apologize. I haven't read your new amendment, does it reallocate the funds away from other ARPA funding sources, or is this an additional appropriation? Basically, I'm asking, how is this going to function, because we can't take more money than we have.

**HUGHES:** So this was the \$20 million of ARPA funds that were for water specific projects, but the appropriations moved it to the DOT, Department of Transportation. So it would be bringing that back.

**M. CAVANAUGH:** So [INAUDIBLE].

**HUGHES:** The \$20 million plus some there, and then bring it back and do \$10 million for a water project.

**M. CAVANAUGH:** So it's taking all of the roa-- the money that went to roads back?

**HUGHES:** We're asking for \$10 million. So they've put--

**M. CAVANAUGH:** So your--

**HUGHES:** --\$20 million plus some.

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**M. CAVANAUGH:** So your amendment transfers \$10 million back to the water fund and allocates those funds to-- Can you allocate those funds through this bill, or does it have to be on LB1413?

**HUGHES:** It-- this one. Sorry.

**M. CAVANAUGH:** OK.

**HUGHES:** Yes.

**M. CAVANAUGH:** All right. OK, so that we're going to take-- and we also took money away from the roads on the last bill.

**HUGHES:** We just did on the last one, I think it was \$500,000 for the Special Olympics--

**M. CAVANAUGH:** Yes.

**HUGHES:** --fund? Yes, it would be that same-- it would be out of that same piece.

**M. CAVANAUGH:** OK.

**HUGHES:** Yep.

**M. CAVANAUGH:** All right. Thank you for yielding to the question. Thank you, Madam President. I yield my time.

**DeBOER:** Thank you, Senator Hughes and Senator Machaela Cavanaugh. Senator Brandt, you're recognized.

**BRANDT:** Thank you, Madam President. I believe Senator Holdcroft probably has one after this? Is that correct? He's nodding his head yes? And probably for a similar amount. So a little background here. When we appropriated the over \$1 billion in ARPA funds last year, some of the agencies that received them are unable to use them before the use-by date, which is December 31st of 2025, and they have graciously returned them to be used on projects that are ready to be used. The Appropriations Committee, in its wisdom, gave that \$20 million to the Nebraska Department of Transportation, and they are going to allocate those funds as follows: \$3 million off the top to fill a hole in the Department of Aeronautics. And then you got to kind of listen up here. There's six road projects in the state that are going to get chip coated. And this is where the money is going to come from to fund these two amendments. Highway 4, Table Rock and Steinauer. I believe

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that would be Senator Slama's district, \$3.5 million. Highway 6, Grafton area, which is, depending on which way that goes, is probably both myself and Senator Murman, \$2.3 million. Highway 39, Genoa area. I don't know, is that, Senator Meyers? No. Senator Moser has Genoa, \$4.5 million. Sargent. Who's got Sargent?

**BREWER:** I do.

**BRANDT:** OK. Senator Brewer with Sargent, \$1.3 million on Highway 183. Madrid, Lincoln County line. Would that be Senator Ibach? Madrid? Yep. She's going, yep. Madrid, \$2.2 million. And the last one is spur 16b and 16f, Hackberry Lake, and Nenzel. Is that Senator Brewer again? Yep. He's winner, winner. He gets two of them. \$3.2 million. So I just want everybody in here to be aware that if we award these funds to these two sewer projects, these are the projects they're coming from, these projects will not be funded. They will not go forward. And while I'm, I'm not opposed to helping on these projects, I believe, and Senator Hughes can expound on this on her own time, but, I know the city of Seward is planning on, on building some economic development projects, and therefore is the need to expand their sewer system. I think that's great. If you're a city and you're growing and you've got economic development, that can help you pay those sewer bonds over the years. And I know, last year, Senator Holdcroft came into our committee in Natural Resources asking for help with Sarpy County. Kind of the same thing. If we can develop these large swaths of Sarpy County, they're going to build more houses, more warehouses, more businesses, more stadiums, whatever they build up there. But I will tell you, in rural Nebraska, to get a road chip coated takes an act of God. And so these projects are the next ones in order for them to do. And so this is a very appropriate use of the ARPA funds, as I see it. So that's all I've got. Thank you, Madam President.

**DeBOER:** Thank you, Senator Brandt. Senator Clements, you're recognized.

**CLEMENTS:** Thank you, Madam President. I stand against this amendment. I, I know that the Governor's Office had in his recommendation to us there was about \$38 million worth of ARPA funds that had been declared unusable. And he alloca-- he recommended to us to send all \$38 million to the Department of Roads for roads operations. And we did allocate those to some other areas, leaving \$20.3 million currently from what has been discussed so far. And this would take the \$20.3 million, this amendment of \$10 million would make it \$10.3. And the Holdcroft amendment, which I will not support, would leave \$300,000 for road

operations. I had agreement from the Governor's Budget Office said of the amounts that we've previously reduced down to the \$20.3 million, but not beyond that. So I, I think the reason that we allocated the rest, in that the Governor was, is that, as Senator Brandt pointed out, funding-- leaving the funding to the Department of Transportation spreads the money around the state rather than a large lump sum to a specific, one location. So I-- we're getting close to running out of the money completely. But I agree with Senator Brandt that it's better-- it would be better used to spread it around. More people are going to benefit from this by leaving it the way it is. So I ask for your red vote on AM2986. Thank you, Mr.-- Madam President.

**DeBOER:** Thank you, Senator Clements. Senator Erdman, you're recognized.

**ERDMAN:** Thank you, Madam President. Good afternoon. We had-- in Appropriations, we had several days of discussion about ARPA money. Several maybe not be a correct definition, many days about how to handle ARPA money that as Senator Brandt had alluded to, it needs to be contracted for by the 31st of December '24, and it has to be spent in '25. And so the Road Department, Department of Transportation, as Senator Clements alluded to, had the opportunity to use these funds in a diverse method or manner around the state. And Senator Holdcroft has a bill coming up, I think it's AM2955, that would designate \$10 million to the Sarpy County Water treatment facility. And so those two together would leave very little money left for the Road Department. We have had issues for years trying to get our infrastructure rebuilt and constructed in a way that we can have commerce moving up and down the road. And this is an opportunity for us to make the best use of the money. I understand Senator Hughes and Senator Holdcroft have issues that they would like to see supported by the ARPA money. But we spent some time analyzing what we should do with the money, what's the best method to distribute or appropriate this money, and we've concluded that transferring it to the Department of Transportation is the correct way to go. So I would echo what Senator Clements had just said. Vote against AM2986, and then the next amendment, Senator Holdcroft's AM2955, will have the same exact effect. So please vote red to sustain what we, the Appropriations Committee, thought was appropriate spending of our money. Thank you.

**DeBOER:** Thank you, Senator Erdman. Senator Moser, you're recognized.

**MOSER:** Thank you, Madam President. Well, both of these amendments are attempts to bring home money for their districts, and I don't blame

them for trying it. But it comes at the expense of other projects in a wider part of the state. You know, every community has needs. And to specifically earmark money just for Sarpy County or just for Seward, I think, is wrong. The Roads Department can't sell bonds and, pay the bonds back in revenue like you can with a sewer treatment plant. When I was mayor of Columbus, we ran up against our capacity. We had a potential company to consider adding to our sewer project, our sewer treatment plant, and we, we didn't have the capacity to do it. And so we spent \$20 million of our own funds, and then used future sewer bills to pay that back. We sold bonds, and that's available to both Sarpy County and to Seward County. They can-- Seward, the city of Seward. They can, sell bonds, build the project, and then just pay it back out of future revenues. Both of those projects are going to happen. Nobody's going to flush their toilet with nowhere for their sewer-- sewage to go. I think we should stick with the Appropriations Committee split and, and go from there. Also, I want to talk just a little bit. You know, we often brag about being a Unicameral. This is one of those cases where being a unicameral sometimes borders on the edge of, of, making flip decisions that we may later regret. If we had two houses, we would vote on bills, and then they'd go to the other house and they'd filter through. We don't have those two houses. We have ourselves, and then we have oversight from the Governor. He's also weighing in on everything we do. And then we still have the opportunity to override if we think that his vetoes are incorrect. But I would encourage the members to support the Appropriations Committee and Senator Clements in his plan to spend this \$20 million on roads. Thank you.

**DeBOER:** Thank you, Senator Moser. Seeing no one else in the queue, Senator Hughes, you are recognized to close on your amendment.

**HUGHES:** Thank you, Madam President. Again, I urge you guys to cast green on AM2986. Let's use ARPA dollars as they were intended, for wastewater infrastructure projects like the new treatment facility in the city of Seward. We've allocated ARPA dollars before for other projects like this, for the city of North Platte, for the City of Lincoln, and others. These funds would be used within the statutory deadlines required by ARPA. They have a big impact on our state economy, as the city of Seward continues to grow our state's agricultural processing capacity. Growing our economy will be vital to produce the tax revenue needed to support the tax cuts we made last year, as well as the critical programs provided by our state. The amendment is to take back \$10 million from the proposed \$20 million ARPA transfer to NDOT requested by the Governor. This \$20 million for

NDOT never had a bill or a public hearing, and is a drop in the budget of-- a drop in the bucket of NDOT's \$1.3 billion per year allocation approved last year. This \$20 million is 0.7% of DOT's budget, money that they were not expecting and did not ask for in the budget. We had a public hearing on LB1205 which proposed \$20 million, but now I'm asking for \$10 million through AM2986. Let's use these ARPA funds for what they were originally intended for, like wastewater projects, that had an exorbitant cost increase due to Covid. And Senators Brandt, Moser and Erdman, when you all come to Seward and you can't flush, do not come to my house. I urge your green vote and I thank you for consideration.

**DeBOER:** Thank you, Senator Hughes. Colleagues, the question is the adoption of AM2986. All those in favor, vote aye; all those opposed vote nay. Mr. Clerk, please record.

**ASSISTANT CLERK:** 4 ayes, 22 nays, Madam President, on the adoption of the amendment.

**DeBOER:** The amendment is not adopted. Mr. Clerk, for the next amendment.

**ASSISTANT CLERK:** Madam President, the next amendment is by Senator Brewer. It is AM2954. Senator, I understand you wish to withdraw the amendment.

**DeBOER:** So ordered. Next amendment, Mr. Clerk.

**ASSISTANT CLERK:** Madam President, the next amendment is AM2955 by Senator Holdcroft.

**DeBOER:** Senator Holdcroft, you are recognized to open on your amendment.

**HOLDCROFT:** Thank you, Madam President. OK, the last one was Hughes' bill. This is my bill. So I expect to have more than four votes. Thank you. AM2955 mirrors the intent of LB1080, which was brought to me by Sarpy County and the city's waste water agency. LB1080 was to provide a one time \$10 million should there be any unexpected and unencumbered ARPA funds to the Department of Natural Resources. This will provide a grant to an entity within a county exceeding 100,000 inhabitants, formed pursuant to the Interlocal Cooperation Act to aid in funding the construction of a wastewater system. Currently, the Sarpy County and Cities Wastewater Agency is conducting the Sarpy County Sewer Expansion Project, which they have provided nearly \$120 million

toward. According to a report commissioned by Hunden Strategic Partners, which I've passed out, over a 30 year period, the economic development facilitated by the completion of the Sarpy County sewer expansion would generate \$15.8 billion, with a B in state tax revenue from sales, hotel, corporate income and personal income taxes. Beyond its potential economic impact, LB1080 would support a well-planned, critical infrastructure project that can expand unused ARPA funds prior to the December 31st, 2026 federal deadline. I would appreciate a green vote on AM2955. Thank you, Madam President.

**DeBOER:** Thank you, Senator Holdcroft. Senator Clements, you're recognized.

**CLEMENTS:** Thank you, Madam President. I stand opposed to AM2955. I've been aware of the Sarpy County sewer system project since 2017, when I was first here, and I did prioritize the bill to allow them to create a joint agency. At that time, they said, we're not going to raise taxes in the county, which I don't think they've used the levy. They do have a tax levy they could use. But they also told me they weren't going to come back and ask for money. But last year there was, I think it was a \$60 million request Sarpy County had, and we did approve \$10 million out of our cash reserve just a year ago. And I've been informed by the fiscal office that Sarpy also received an \$81.6 million loan, which part of that will be 0% interest, which part of it will be forgivable. And they're, they are fast growing and there will be a good use for them, they were thinking that users hooking up to the system were going to pay for the system, but, I think that's not quite happening as fast as they would like. But the state has already applied \$10 million towards Sarpy County's project last year, so I oppose AM2955. Thank you, Madam President.

**DeBOER:** Thank you, Senator Clements. Senator Holdcroft, you're recognized.

**HOLDCROFT:** Thank you, Madam President. Just to expand a little bit more on the project. Sarpy County is the smallest county by area, but the third largest by population. And because of a ridge that goes from the northwest to the southeast, literally half of the-- of the Sarpy County is not developable because it doesn't have a wastewater system. So what we're doing is we are installing essentially a wastewater pipeline, goes along the ridge, and future development will hook into that. And this has been an agreement between the five cities in, including Omaha, because we're going to be using the Omaha sewer treatment plant. And again, we're talking about a return on investment

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over the next 30 years of a \$15.7 billion. So would Senator Clements yield to a question or two?

**DeKAY:** With Senator Clements yield to a question?

**CLEMENTS:** Yes.

**HOLDCROFT:** Is this \$20 million? Is that the only funds that are available to NDOT?

**CLEMENTS:** No.

**HOLDCROFT:** About how much is-- do they have in their budget?

**CLEMENTS:** Around \$180 million, I believe.

**HOLDCROFT:** So they have \$180 million for these projects. The only reason they're wanting to use the ARPA money is, I suppose, because it is expiring. Now, I would also like to add that this money needs to be allocated by the end of this year. So you really need a shovel ready project. And this, of course, the Sarpy County project is already shoveling, so it would not be an issue to allocate this-- these funds. These funds have bounced around, I think they originally designated for, for Omaha, and then they went to Lincoln for their water project. And they just couldn't be allocated by the deadlines. And so now we're, we're down to the last, what, nine months of the money's existence. And we're still-- we're still trying to figure out, you know, how are we going to get this under contract? One other question for Senator Clements?

**DeKAY:** Senator Clements, would you yield to another question?

**CLEMENTS:** Yes.

**HOLDCROFT:** Do you know what the return on investment is for these projects that the NDOT has planned for this money?

**CLEMENTS:** No. All I know, they told me they have \$500 million they could spend if they had it.

**HOLDCROFT:** OK. Thank you, Senator Clements. So I look at the Sarpy County as a sure thing. I mean, we already, we're already working. We already have developers who are-- have indicated that they are, are going to tap into this system. The, the, the Interlocal Agreement, is, is, is done extremely well at being able to, to continue this project



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without having to raise property taxes, and that's kind of a goal of, of the county, county board. So I would appreciate your, your vote for AM2955. Thank you.

**DeKAY:** Thank you, Senator Holdcroft. Senator Moser, you're recognized to speak.

**MOSER:** Thank you, Mr. President. Some of the NDOT projects that are predicting to use this \$20 million are in my district. And I looked up the average household income in my district, and it's around \$89,000. The average household income in Sarpy County is \$153,000. So it's almost twice as much household income as my area. I, I would encourage Sarpy County to borrow money by bonds, pay it back by usage fees. I think they're one of the fastest growing counties. And this will solve a big problem for them, I, I agree with that. But rather than come to the state to do it when they have the ample resources, I think they should do it themselves, pay for it back by sewer and water rates. Thank you.

**DeKAY:** Thank you, Senator Moser. Seeing no one else in the queue, Senator Holdcroft, you are recognized to close on your amendment.

**HOLDCROFT:** Thank you, Mr. President. So here we are. Really, all I'm asking for is more than four votes, because I really want to beat Senator Hughes on this. And if I need to, I will do a call of the house, so I get the four, five votes. Thank you, Mr. President.

**DeKAY:** Thank you, Senator Holdcroft. The question is, shall the amendment to LB1412 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Mr. Clerk, please record.

**ASSISTANT CLERK:** 7 ayes, 23 nays on the adoption of the amendment, Mr. President.

**DeKAY:** The amendment is not adopted. Mr. Clerk, next item.

**ASSISTANT CLERK:** Mr. President, Senator Vargas would withdraw AM2949 and substitute FA297.

**DeKAY:** Without objection, so ordered. Senator Vargas, you're recognized open on FA297.

**VARGAS:** Thank you very much, President. Colleagues, this is a very straightforward intent language amendment to the budget. It really

does one main thing, and I think we, we have debated on the floor in the past, even in currently about whether or not we're fully funding provider services for developmental disabilities. I think the answer is we're not. And we're also not keeping up with the cost of services, the cost of workforce, and the cost of actually providing the services across the state. We've heard that in committee. We've heard that in hearings. We've heard that continuously. But we've also heard that not all the money and the funding that has been allocated within this program, in 424, has not all gone out. So this is language that directs the DHHS department to make sure the funds that we do allocate and appropriate in this budget are getting out by the end of the year for provider services. This isn't adding more money. I know there's other bills that would likely, or trying to do that, partly because we're still trying to figure out how to balance, the budget and, and thinking forward on what we can afford. What this is doing is essentially saying the DD General Fund obligations that we have appropriated for this-- for this aid program, for the Developmental Disability aid needs to go out, and needs to go out by the end of the year, and go out directly to the DD service providers. That's it. I'm asking for your support for this amendment, so that we can make sure what, what we're doing is telling the DD service providers and the community that we want to make sure these dollars go out too. We're telling that to DHHS. They're also aware of this as well. And it's a way of making sure that we're putting more urgency behind the need to get the dollars that we do have appropriated out as quickly as possible. And then next year, hopefully, we'll see more people coming and seeing whether or not they want to-- we can find more General Funds to better support DD providers and other providers. I ask for your green vote. Thank you very much.

**DeKAY:** Thank you, Senator Vargas. Senator Erdman, you are recognized to speak.

**ERDMAN:** Thank you, Mr. President. So I have just now seen FA297 for the first time. I was wondering if Senator Vargas would yield to a question?

**DeKAY:** Senator Vargas, would you yield to a question?

**VARGAS:** Yes, I will.

**DeKAY:** Senator Vargas, so maybe I missed something, but help me understand what problem you're trying to solve with this amendment.

**VARGAS:** Yes. So, one, there are times where we appropriate funds to an agency or sub program, and then not all the funds are expended. So the problem we're trying to solve is, in addition to appropriating the funds for use, we're also providing intent language and saying that these funds need to be fully allocated. As you know, every single year, DD providers and other providers come to us and say not all the funds are coming out of DHHS.

**ERDMAN:** OK.

**VARGAS:** And then we go in a back and forth on whether or not there is enough funds to better support increased rates or not. Instead of debating whether or not we should add more funds, let's make sure the funds that we do appropriate, the intent language is to get those funds out by the end of the year. Just General Funds, the existing appropriations that we have. So we're solving the problem by putting the urgency and putting it in plain language. We're not just appropriating, we're telling them to utilize all the funds by the end of the year.

**ERDMAN:** But-- so when we do that at the end of the year, will those be distributed in the form of bonuses, or how do-- you how are you going to distribute the money if we haven't appropriated it for a specific use and we just give it to DED or whatever you said it was? How are they going to spend that money if it hasn't been appropriately appropriated? How's that work?

**VARGAS:** So we did not dictate how they should get the money out. Part of it is, I think that is a little too constrained. There are different ways that the DD-- the DD funds and the aid get out. They get out through reimbursement, they get out through direct payments, and, and it's treated differently for different services. So I trust that DHHS will determine the best and most effective and efficient way to get the the funds out that they're appropriated. Rather than tell them on how to do it and when to do it, I wanted to make sure we put that in there in their hands and autonomy. So.

**ERDMAN:** OK. Well, thank you for answering that. I, I, I'm opposed to FA297. I, I think that's very vague on how we're going to distribute the money just to say you have to distribute the money at the end of the year. I think DHS has an understanding where that money should go and how it should be spent. And just to designate a distribution because we have money at the end of the year, I don't believe that's the correct way to appropriate funds of the state's dollars. And so I

will not be voting for FA297, I would encourage you to do the same. Thank you.

**DeKAY:** Thank you, Senator Erdman. Senator Jacobson, you are recognized to speak.

**JACOBSON:** Thank you, Mr. President. I know we want to keep things moving here, but I, I just want to speak a little bit to Senator Vargas' amendment. I, I, I recognize that it may not move forward, but I think the message here is an important one, OK? I haven't been here a long time, but so far, my experience with the D-- DHHS prior to the new director has been horrible. OK, I got down here the first year from Region II, and I think they were-- they were told by someone at DHHS, they told me don't ever bring this up on the floor again, so I will. We had a situation where they lost \$1.2 million of their budget. And they lost that money because they weren't able to pro-- to do the programs that was in their budget because they couldn't-- for number one, they didn't have the specific needs for what was originally in the budget, and they didn't have the providers available to do it. So they asked to make a change and fill other needs that they had that met with both the federal and the state guidelines. And oh, by the way, the director had been there for several decades at, at Region II, and knew exactly what the rules were. It was denied. And because it was denied, that money went unspent and they lost it. And that's exactly what Senator Vargas is talking about, is that stuff happens too often. Sit on the money, don't disburse the money, it just goes into the General Fund, or into their general fund, spend it however you want to later. We had a performance audit that occurred, and that performance audit was done because there were money that was allocated by the Legislature to be used for a specific purpose. Senator Machaela Cavanaugh was part of the performance audit when we went through that. And what happened, Senator Cavanaugh? They were allocated the money, sat on it for 18 months, then went to DED and said, here you go. You got six months left to spend it. They gave it back to DHHS, said we don't have time to deploy it at this point. So they took it and put it into their general operating funds, fix the newel post, we're done. So then we had a performance audit done. Performance audit came out, identified all this, confirmed it was all true, and DHHS said, yep, it's right, it's true. So what's the response? Nothing. You can just all go pound sand. We don't care what the Legislature thinks. That's why this is an important thing. At some point there has to be accountability. There has to be accountability. If we're going to put funds into a large organization, there's an expectation that it gets used for the purposes. We all know that develop-- developmental

disabilities and all kinds of, of funds that are there to go for specific purposes and behavioral health are necessary. There should never be dollars left over because that's how great the need is. There should not be excess funds to sweep from there because we should be taking care of those problems. Am I right, Senator Fredrickson? I'm guessing I am. And I'm guessing you would agree with that, too. So, for what it's worth, I'm going to vote yes on it, even though I realize it's not going to move forward, just to send the message that I want agencies to be mindful of the dollars that get sent there, spend them the way they were intended to be spent. Thank you, Mr. President.

**DeKAY:** Thank you, Senator Jacobson. Senator Dungan, you are recognized to speak.

**DUNGAN:** Thank, thank you, Mr. President. And colleagues, I also recognize we want to move forward on this, and I want to make sure we can get to a vote on a number of things here. But I want to slow us down just a second. To highlight FA297 from Senator Vargas is-- and Senator Jacobson, I appreciate every comment you just made, but this is not, I think, just, a message we're sending. This is a legitimate amendment. My understanding is the Governor's Office does not oppose this. My understanding is that this is a solution that does not involve us giving additional funds, but rather says the funds that have already been appropriated for this specific purpose need to be used for this specific purpose. And the problem we're running into is if you go talk to service providers for the developmental disabilities community, whether they be the, the companies or the organizations or the direct service providers, the people in the home doing this work, you'll find out and you'll hear that there's a crisis right now. If you call and you ask for home services-- if you ask to get somebody in your home for actual boots-on-the-ground services right now, you call 30 companies, 30 organizations, you might get told no 30 times because they don't have the workers doing this work. And, colleagues, I think all of us know and appreciate the importance of taking care of all Nebraskans, which includes our friends in the DD community. People in the DD community are members of our community like everybody else and they deserve to live and to thrive and they, they deserve inclusion. But in order to sometimes effectuate that, they just need a little bit more help to get the same services and things that we have. We have an obligation to Nebraskans to do better. And when there are tens of millions of dollars sitting in a fund that aren't entirely being used the way they're supposed to be used and no one can give you a clear answer as to why they're not being spent, that is a problem. I know

many people who work in the DD community, I know-- I have many friends who are in the DD community themselves. And when you ask why this money is not being spent for the reason it's supposed to be spent, nobody can give you a clear answer, necessarily. So all this is doing is trying to achieve a solution until we get to the next biennium saying the DHHS, as Senator Vargas outlined I think very well, knows how to spend this money, knows where it can go, but they need to spend it because right now it's just sitting there and you have people who are in crisis who need this. And so I would encourage my colleagues to support FA297. This is a solution that is clearly, I think, workable. We have our friends on the Appropriations Committee, Senator Vargas, who brought this bill, who understands this would work and so we should trust our committee. We should trust those who have been closest to this problem, that they, in fact, can find a solution. So please, colleagues, I'd encourage your green vote on FA297. Thank you, Mr. President.

**DeKAY:** Thank you, Senator Dungan. Senator Machaela Cavanaugh, you're recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. Would Senator Vargas yield to a question?

**DeKAY:** Senator Vargas, would you yield to a question?

**VARGAS:** Sure.

**M. CAVANAUGH:** Thank you, Senator Vargas. OK, so your amendment adds intent language and is it your intent?

**VARGAS:** It is intent language that directs the agency to expend the expenditures of General Funds for DD provider services.

**M. CAVANAUGH:** Is there any repercussion to them not following this intent?

**VARGAS:** The, the intent language has the same-- the same power of any language that we put into the budget. So the same consequences of not following through is as a result of holding them accountable. And that's us.

**M. CAVANAUGH:** Right. Is there-- as-- I mean, Senator Jacobson and I were just discussing off the mic that he checked all of the boxes that they lack accountability. They're not spending the money. They're using it as a slush fund. They tell us to pound sand. So I appreciate

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putting in the intent language because I think that's really, really important. If they don't do this, what is our next step?

**VARGAS:** That is the right question to be asking. We don't currently have a consequence mechanism when an agency does or does not expend the funds that they're supposed to. We've had this run into not just in this agency, we've had it run into different other agencies. We've had this conversation together with my committee on spending within, you know, funds for creating new projects within child welfare. We've had this issue with spending within child welfare aid. We've had the spending in, in other departments as well outside of DHHS. I think it's going to be part of what we look at also from our, our committee report, our, our special committee is making sure that we are-- we are the backstop and, and, and holding accountable that funds are being used for what they say they're supposed to be used for.

**M. CAVANAUGH:** So if-- and I know you're-- neither one of us are attorneys-- but if they don't expend this money-- this is a vulnerable population that we're trying to fund and if they don't expend this money can somebody sue the state?

**VARGAS:** Again, me not being the attorney,--

**M. CAVANAUGH:** Right.

**VARGAS:** --technically, again, the language that we put in the budget and we put in statute is, is lawful. And so it still is not a statute, it's intent language. I don't believe that they can because it's within the budget.

**M. CAVANAUGH:** Yeah. OK. Well, thank you. I appreciate the conversation. I appreciate the intent language. I'd appreciate it all so much more if they would just do what we allocate appropriate money for them to do. But I guess that's the ever back and forth between us and them. So thank you, Senator Vargas.

**VARGAS:** Thank you.

**M. CAVANAUGH:** Thank you, Madam-- oh, sorry, I was-- sorry, I was used to Senator DeBoer earlier today. Thank you, Mr. President.

**DeKAY:** Thank you, Senator Cavanaugh. Senator Walz, you're recognized to speak.

**WALZ:** Thank you, Mr. President. I stand in complete favor of FA297. And Senator Jacobson is absolutely right, we appropriate funds to go to agencies to provide very, very necessary services and then those funds are not extended out to the agencies. A good example is a bill that Senator Jacobson had, I hope he's listening, LB433. And it's a good example of how these funds are not being utilized. I was wondering if you would yield to a question?

**DeKAY:** Senator Jacobson, would you yield to a question?

**JACOBSON:** Absolutely.

**WALZ:** Actually, it's not a question. I just wanted you to explain that bill, what happened with it, and then clarify what you meant by how you should vote on this bill by the end of the-- this floor amendment. Thank you.

**JACOBSON:** Well, I got a little lit up here afterwards in terms of thinking this bill would not move forward. So let me clarify that. I intend to vote yes on this amendment and would encourage others to do the same. OK? Now I just want to be clear, this is a problem. Now, I also have a lot of confidence in the new director and in the new administration to make certain that we're going to see changes. I also recognize this is a huge ship that will be very difficult to turn very quickly, but we've got to start turning that ship because there's a lot of money, a lot of taxpayer dollars that are going into that organization and that agency and we need to see better output than we've gotten up to now. There is-- if, if you look at mental health problems across the state, it's huge. We've got to put a stop to that. We've got to fix it. We got to start making better progress there. So I intend to vote yes. I would encourage you to do the same thing. Thank you.

**WALZ:** Thank you, Mr. President. I yield my time back.

**DeKAY:** Thank you, Senator Jacobson and Senator Walz. Seeing no one else in the queue, Senator Vargas, you're recognized to close on your amendment.

**VARGAS:** Thank you very much. Again, colleagues, this is not additional General Funds. This is intent language within the budget directing the agency to expend the dollars that they currently have appropriated to DD services. We know there's a problem, you heard it from many people on the mic already, and will echo Senator Jacobson's call to action,



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which is we need to make sure that these are businesses. There's, there's providers closing, there's programs being cut, there's new referrals that are being denied, and current participants are continuing to be [INAUDIBLE] due to the underfunding. We're not solving that issue, that's still an issue to be solved in the future for a future Appropriations Committee. But what we can do is making sure the dollars that are obligated and that are appropriated in this year are getting out to providers, and that's what this intent language does. I urge your green vote on FA297.

**DeKAY:** Thank you, Senator Vargas. The question is, shall amendment to FA297 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who-- shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**ASSISTANT CLERK:** 28 ayes, 8 nays, Mr. President, the house is under call.

**DeKAY:** The house is under call. Members, the house is under call, all unauthorized personnel, please leave the floor, all senators return to the Chamber. Senator Day, Senator Kauth, Senator Ibach, Senator Erdman, Senator Riepe, would you please return to the Chamber. The house is under call. All senators are now present. Senator Vargas, will you accept call-in votes? We are now accepting call-in votes. Mr. Clerk.

**ASSISTANT CLERK:** Senator Bostar voting yes. Senator Hansen voting yes. Senator Wayne voting yes. Senator Erdman voting no. Senator Day voting yes. Senator Meyer voting no. Senator Ballard voting yes. Senator Hughes voting yes. Senator, Senator Arch voting no. Senator DeKay voting yes.

**DeKAY:** Mr. Clerk, please record.

**ASSISTANT CLERK:** 29 ayes, 18 nays on the adoption of the amendment, Mr. President.

**DeKAY:** The amendment is adopted. I raise the call. Mr. Clerk, for the next item.

**ASSISTANT CLERK:** Mr. President, Senator Clements would, would move to withdraw FA258 and substitute AM3070.

**DeKAY:** Without objection, so ordered. Senator Clements, you're recognized to open on AM3070.

**CLEMENTS:** Thank you, Mr. President. AM3070 is going to become LB1412 or the additional amendment on top of the committee amendment that was passed on General File. This is some more items from the, the spreadsheet that I handed out first thing this morning, had items for LB1413, which is the Cash Reserve and cash transfer bill. LB1412 is the mainline budget bill, which is the General Fund spending, the Cash Reserve and cash transfers are like our savings account that you, you keep when you then-- when you want to spend something, you transfer it to the General Fund or to your checking account. And that's-- this is where the mainline General Fund spending comes from. On the handout I gave you, I'll be talking about 1, 2, 3, 4-- there are 9 items. Some of the items are in both bills. First one is the, the continuation of the State Unemployment Insurance Trust Fund. That cash fund is going to the Department of Labor. Department of Labor is going to spend out of that cash fund and, and replace General Funds. So there's a positive \$40 million, which offsets the reduction of the transfer that the committee had originally. So there is no General Fund-- no General Fund effect for the state unemployment fund transfers as long as we pass this one. But it does allocate the money from this unemployment fund. So the Department of Labor will be who spends it, rather than just anybody else in the state-- any other agency under other program. The next item is shown as item 2, the Medicaid Managed Care Excess Profit Fund authorizing DHHS to use \$30 million of the \$38 million they will have in that fund. The other \$8 million is being used for bills on the floor, and so the \$30 million is going to allow HHS to continue to do the unwind recertification of Medicaid people. I had a handout also, they had at least \$60 million more of things like lower federal matching funds. Then, item 4 is allocated for tenant, tenant assistance using the state's Attorney General's settlement fund, be a one-time expense for that program. Item 5 is the Madonna HVAC program. We reversed the appropriation of the Case Reserve, but will also have to put that in LB1412. Item 6, we talked about the York prison water system of \$2.5 million. This-- the \$2.5 million goes into General Fund transfer to be able to spend that to supply the, the money for that program. Item 7 is only in this bill, its Special Olympics programs coming from the Cash Reserve. Yes, from the Cash Reserve, 500,000 for Special Olympics. That request did come to the committee. It was a 4-5 vote in the committee and we-- in negotiations with people who had additional requests that this whole page is additional requests that we considered and that was approved by the group. And I ask your approval of that, too. Line eight, the PTSD pilot program. Senator Wayne has talked about that. That's \$500,000 of ARPA funds. And then line 9 is Department of Transportation, \$500,000 reduction of their

funds, which is still going to leave them just right at \$20 million. But that was the one item that we did take out of the Department of Transportation for that PTSD pilot program. And the bottom one says: Supreme Court interpreters. We're earmarking that agency, the Supreme Court, their budget to earmark \$600,000 for court interpreters and directing them to spend that out of their current funds. Those are the items and I thank the people that helped work on these adjustments to the committee amendment. And I'd ask your green vote on AM3070. Thank you, Mr. President.

**DeKAY:** Thank you, Senator Clements. Mr. Clerk, for an amendment.

**ASSISTANT CLERK:** Thank you, Mr. President. Mr. President, Senator Fredrickson would move to amend AM3070 with FA296.

**DeKAY:** Senator Fredrickson, you're recognized to open on FA296.

**FREDRICKSON:** Thank you, Mr. President. Good afternoon, colleagues and Nebraskans. So FA296 is an amendment that will remove the \$15 million in mid-biennium adjustments and ensures those funds will remain in place for mental and behavioral healthcare, as well as for funding for the nursing concerns that have been expressed at the Lincoln Regional Center. So the need for these investments are clear. We have 88 of our 93 counties identified as mental health professional shortage areas. Our workforce continues to age. And according to the National Alliance on Mental Illness, 257,000 Nebraskans have a mental health condition. More than a million people in Nebraska live in a community that does not have enough mental health professionals, and the need for these services is very real. If there are challenges in getting these needed dollars out, then we must look at solutions to make sure that things are more efficient. Taking the funds away is not a solution to the problems that we are seeing and Nebraskans expect and deserve better. I believe that the Legislature needs to study the reasons why these dollars aren't being spent. I have spoken with providers about sponsoring or cosponsoring such a study in the interim, and we need to know the factors that are holding up the expenditures of these dollars, and we need to eliminate these barriers. It's also very important to note that none of these dollars were restored in the previous debate on LB1413. The \$2 million in funding restored in that bill was for the Behavioral Health Services Fund, which is a different fund than the Behavioral Health Aid Fund. So we have not restored any of these funds. My understanding was that the request for the sweep of these funds, part of the rationale from that from the executive branch was that there was-- that we're having a nursing crisis at the Lincoln

Regional facility, LRC, and my amendment looks to address that concern. So it maintains that \$15 million in the budget for behavioral mental health, \$12 million of that will stick with the behavioral health, \$3 million of that will be directed to the LRC for the nursing shortage issues that the executive branch has been brought up. So this amendment will still have a cut to behavioral health funds from the \$15 to the \$12 million, with that additional \$3 million going towards the LRC to address the nursing shortages that have been brought up. I'm asking us as a Legislature to preserve these funds now, because once they're gone, they're gone. So until we have this-- until we kind of take a closer look at this in the interim and identify what administrative and procedural issues that are in place, I think we need to ensure that these resources don't get touched. Again, \$15 million of-- \$15 million of cuts in mental and behavioral health is, is a major concern. I think anyone in this room who knows what's going on, we spoke with constituents, it's not that there's not those funds to spend. So if this is not being spent, we need to look at why it's not being spent. We need to figure out why it's not being spent and ensure that it is being spent. But to say that that's not needed for behavioral health and mental health is not in any way, shape, or form accurate. So I ask for your green vote on FA296. Thank you, Mr. President.

**DeKAY:** Thank you, Senator Fredrickson. Mr. Clerk, for an announcement.

**ASSISTANT CLERK:** Thank you, Mr. President. The Revenue Committee will hold an Executive Session in Room 2022 at 4 p.m.; Revenue Committee in Room 2022 at 4 p.m. Thank you, Mr. President.

**DeKAY:** Thank you. I would like to recognize under the south balcony, the Arnold Tutorial Group from Arnold, Nebraska. Senator Erdman's group. Would you please stand and be recognized. Thank you, colleagues. Senator Dungan, you're recognized to speak.

**DUNGAN:** Thank you, Mr. President. And, colleagues, I rise in favor of both FA296 as well as AM3070. I want to say thank you to Senator Fredrickson for taking the lead on such an important issue. I know with his background, he's an expert on these subjects. And so I think we should all pay heed to the comments he makes with regards to both the importance of behavioral health and also the necessity for continued funding for that as well. I want to speak just briefly about some of the underlying language in AM3070 with regard to court interpreters. If you've listened to me during any of the debate with regards to our budget, you'll know that's been a major sticking point

for me, both last year and this year. And I want to say thank you to the Appropriations Committee and Senator Clements for listening to that conversation and, and doing something about it here. So I just wanted to take a couple of seconds if Senator Clements would yield to a couple of questions?

**DeKAY:** Senator Clements, would you yield to a question?

**CLEMENTS:** Yes.

**DUNGAN:** Thank you, Senator Clements. So I just wanted to clarify on the record, you indicated that the court interpreters are going to be receiving an earmark in this of \$600,000. Is that correct?

**CLEMENTS:** Yes.

**DUNGAN:** Can you go into a little bit more detail just so it's clear for the record and for myself how that earmark works? Does that then mean that the Supreme Court must use that \$600,000 on court interpreters specifically, or how does that actually operate and function?

**CLEMENTS:** That means the legislators-- Legislature is directing the court to spend \$600,000 for court interpreters. We did have a General Fund request from the court to, to add that to their budget. But we're seeing that they have \$8 million of carryover funds that they'll have by the end of the year. And so we felt like the \$8 million that they have, they should spend that money rather than ask for an additional fund. But, yes, it is directing it to spend for court interpreters.

**DUNGAN:** OK. And that \$600,000 is in addition to what the court interpreters are currently receiving, correct?

**CLEMENTS:** Yes, that would be new funding.

**DUNGAN:** And then how-- what's the effect of that earmark moving forward? Is this just an earmark then for the next year, the next fiscal year and then we'll have to come back and address this in the next biennium budget or is this a continual earmark that says the Supreme Court has to spend a certain amount of money on court interpreters annually?

**CLEMENTS:** No, this is just-- for this 2-year budget ending June 30, 2025, it would have to be considered in their budget in the future.

**DUNGAN:** And then I know we've talked a lot about their cash fund, and I know there's been some conversations regarding whether or not that cash fund is going to continue to grow or be depleted, but assuming that coming into the next biennium there's not enough funding to continue the current pay for court interpreters or keep up with how much they should be making, that's something that we'll work together on then next year to address in the budget. Is that right?

**CLEMENTS:** That's right.

**DUNGAN:** OK. Thank you, Senator Clements. I appreciate it. Colleagues, I, I do support AM3070. I think that it's going to be an ongoing conversation with ensuring that our court interpreters get the funding they need. I do believe that we've all worked really hard to get them to this place. And so, again, I want to thank Senator Clements for his continued commitment to working on this and I would encourage your votes on both FA296 and AM3070. Thank you, Mr. President.

**DeKAY:** Thank you, Senator Dungan. Senator Clements, you're recognized to speak.

**CLEMENTS:** Thank you, Mr. President. FA296 is reducing the transfer from the behavioral health fund that's going into the General Funds. And if you look on item 3, behavioral health, in the-- what we-- yeah, what we've already-- I've agreed to is a \$2 million restoration of behavioral health funds, which would bring them up to what my figures are here, the analysis of \$3 million. Part of the reason for behavioral health extra funds is Medicaid expansion. There are more people being-- using insurance-- Medicaid insurance coverage for behavioral health and less need for the behavioral health program aid. And so when we got Medicaid expansion in, we did not reduce the behavioral health budget until we found out how much effect-- reduction and their need Medicaid expansion would do. And so the transfer that was proposed by the Governor was to use those excess funds rather than having them build up. So I already have conceded \$2 million of reducing the transfer and that's, that's the limit of what I'm going to support so I do not support FA296. Thank you, Mr. President.

**DeKAY:** Thank you, Senator Clements. Senator Walz, you're recognized to speak.

**WALZ:** Thank you, Mr. President. I stand in full support of FA296 from Senator Fredrickson and appreciate him bringing this amendment.

Colleagues, mental health is-- it's still here. It is still a major issue in Nebraska. We have made some progress in destigmatizing mental health and providing some resources to schools and people who need it. But we have so much further to go. We're not done. I'm pretty sure that each and every one of you know someone who struggles with some type of mental health issue, an emotional issue, or an addiction, whether it be a family member, a friend, a child, a student, a teacher, a veteran, and so many other people who are actually in crisis situations today. We have work to do. Just because we decide that we're going to ignore or defund important resources that go to providing care for people who have mental health doesn't mean it's gone. In my mind, that's a giant step backward. The mental health needs of our Nebraskans are not going to disappear. We have work to do. I have heard the concerns about the behavioral health regions not spending the money. However, I don't think that giving up on important healthcare for Nebraskans is the answer. I think there's a better way to assure that these funds are being expended and used in the areas where we see the most needs. If we-- I guess what I would do is suggest that instead of defunding our mental health resources, we look at those projects and identify and create a reporting system to assure that those funds are being spent in the most effective and efficient way possible. I do have a question regarding the appropriation or the funding that goes toward the Lincoln Regional Center and I was wondering if Senator Fredrickson could answer a question, could yield a question?

**DeKAY:** Senator Clements, would you yield to-- Senator Fredrickson-- my bad-- would you yield to a question?

**FREDRICKSON:** Yes. Yes, of course.

**WALZ:** Senator Fredrickson, do you have-- like, this is the first time, honestly, that I've heard anything about \$15 million being needed to go to Lincoln Regional Center. Do you have any specific information or have you seen a specific plan or anything that, that would relate to that?

**FREDRICKSON:** Yeah, no, thank you for the question, Senator Walz. So my understanding was that part of the rationale for the \$15 million sweep of the behavioral health funds was-- part of the issue was the shortage of nursing staff and nursing providers at the Lincoln Regional Center. And my understanding from, when I've reached out to the regions, that LRC, and this is as, as of earlier this week so I'm assuming these numbers are fairly accurate, but LRC has added 110

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positions into the hiring pool. So my understanding that there are 110 open slots or, or positions that are needed to be filled, 60-plus of those slots were mental health specialists. So I, I think that the, the executive branch is--

**DeKAY:** One minute.

**FREDRICKSON:** --spot on when-- oh, that's not my time, it's your time-- but the executive branch is spot on when they say that they need funding, which is part of why my amendment that takes the \$15 million, it doesn't all go to behavioral health, \$3 million of that goes towards the regional centers for the needs they have there with, with the nurses.

**WALZ:** You know-- thank you, Senator Fredrickson. My last question, and you can help me answer this too, is I wonder if there would be any type of a collaboration that could happen between the behavioral mental health regions and Lincoln Regional Center when it comes to providing those mental health resources?

**FREDRICKSON:** Absolutely. I think there's a lot of room for that.

**WALZ:** All right. Thank you, Mr. President.

**DeKAY:** Thank you, Senator Walz. Senator Clements, you're recognized to speak.

**CLEMENTS:** Thank you. I want to correct something I said earlier. I was mistaken when I talked about the \$2 million reversal of transfer. This is not affecting the cash transfer we did. This is behavioral health and is a-- it's a request for \$15 million of General Funds. And we have been explained \$3 million of it is going to add to the Lincoln Regional Center funding and, and \$12 million to Behavioral Health Aid Program 38, which is currently scheduled to have \$70.3 million allocated in appropriations. And that would raise that from \$70 to \$82 million. And I'm still thinking that the current funding is adequate and I do not support FA296. Please vote red. Thank you.

**DeKAY:** Thank you, Senator Clements. Senator Dover, you're recognized to speak.

**DOVER:** Yes. So I just would speak up, I guess, on a few things. I, I think that-- I understand Senator Fredrickson's passionate concern with mental health and, I think, obviously, mental health and, and many, many, many other issues are affecting Nebraska. And the



problem-- the biggest concern-- I tell you being on Appropriations is really tough-- it is a really tough committee to be on. I've-- and I've heard probably not as hard as HHS. I've heard HHS is very difficult but I've never-- I've never been there. But I would urge-- I would actually, I guess, speak against FA296 for a couple of reasons. One is there just isn't-- I mean, we fund a lot of different things. This is popping up now. And we, we had-- we looked at all the budget and stuff and it's amazing how almost every agency that had money sitting there and those kind of things then, it sat there for years and years and years and all of a sudden when they finally realize that this surplus that they had was going to be taken or whatever, they said, oh, no, we have plans for it. So it's-- so, I mean, everybody can come up with a reason to spend their money. I would also-- the second reason, I guess, I would prefer that-- I'm not saying that this money isn't needed. I'm simply saying I would prefer to wait to see what the efficiency expert finds. She's, she's currently working through kind of a process and procedures of the different agencies hoping to, I guess, save money, perhaps, or to help more people with the same amount of money. And I think really being in the second half of a biennial on the budget isn't the time to start saying \$15 million here or there. I, I would feel much better if we can let the-- I believe the company might be called Epiphany-- but Kris Cox go through the process, find out what the best use for taking care of mental health is working with the agency and the experts involved, such as Senator Fredrickson, and wait until they do their work-- their research. And then when we actually have our budget in a new session, I believe that's when we start looking at doing a budget for the biennial. But I don't really believe some of these things that we're doing are correctly done in the second half of the biennial. We really-- usually, in Appropriations, we deal with deficiencies from agencies that come to us. And, I mean, obviously for one reason or another, the estimates-- perhaps, the estimates are wrong or whatever, and they have to, actually, justify to the Appropriations Committee why they ended up short on money. But I really don't believe this is the place to be spending large sums of money in the middle of a biennial. I think that's better addressed in the coming session. I yield the rest of my time to the floor. Thank you.

**DeKAY:** Thank you, Senator Dover. Senator Clements, you're recognized to speak. This is your third and final time.

**CLEMENTS:** Thank you, Mr. President. I just wanted to remind you this is \$15 million of new General Fund spending. If you thought you're going to have money for an A bill to the floor, this would reduce the

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amount of money available to the floor for A bills. And I think we have a lot of other requests for this. And I believe the agency is still adequately funded and I oppose FA286. Thank you.

**DeKAY:** Thank you, Senator Clements. Senator Walz, you're recognized to speak.

**WALZ:** Thank you, Mr. President. Senator Dover, would you yield to a question, please?

**DeKAY:** Senator Dover, would yield to a question?

**DOVER:** Yes.

**WALZ:** Thank you, Senator Dover. You know, I heard you say that you think it would be better that we wait until-- to see what happens-- to see what happens in the budget.

**DOVER:** I, I-- no, I-- no, I guess, let me-- let me explain myself in case I, I misspoke. So it was two points: one was, there's currently a person that's being paid \$2.5 million. It's a-- it is a-- there was-- I had stated earlier on the floor that this was, actually, a performance contract. And then some-- another senator on the floor said they read the-- they read the contract and it's not a performance contract. Well, it is a performance contract and Senator Armendariz got up and, and spoke. I've, I've met Kris Cox, she-- well, briefly, I'm just going to tell her story-- so worked in the Bush administration, worked in the governor's budget office in Utah, became blind, got very, very frustrated with the processes in government taking care of people in her situation that were blind. She found her calling. She worked in multiple states getting better service, better results for Nebraskans in many, many different things including, I'm sure, mental health. She's an expert, that she's one of the most intelligent people I have ever met. And so I would say this is before we all of a sudden spend \$15 million of, of General Funds which, of course, again, as Senator Clements-- that's going to affect what-- if anybody has any plans here on the floor for their, their projects and their concerns is it's going to severely restrict that amount of money. So I said wait for two reasons: one was because there's currently work being done to, to analyze. And I'll say this is, the process is here as, as people have explained the frustration that they're having as far as there was money appropriated to HHS and they didn't do what they did as Senator Vargas had expressed on a-- on a different topic, but it's the same issue. So she is looking at

efficiencies. I think she's-- I, I, I fully believe in her. I think she'll do a fantastic job. So that is one reason, let her do her job.

**WALZ:** OK.

**DOVER:** Let her come back. And the other thing I said was, I don't know necessarily that addressing this in a-- in the second half of a session of the-- of the biennial that, I think, this may better be addressed--

**WALZ:** All right. OK. Thank you, Senator Dover. My-- before we run out of time now, my second question is while we're waiting and we're analyzing this information, what happens to all of the people who live in Nebraska who are in crisis situations? What are we going to do with those people?

**DOVER:** Well, I guess-- first of all, I guess, that would-- I, I, I don't know if the assumption is that there's nothing, nothing out there to help them now. And, and the question is, if we need more, I can-- I don't know that-- I don't know if anyone from firemen to policemen to mental health to hospitals to anyone where there is any-- there is 100% coverage for everyone. But I-- I'm, I'm assuming because we've been in this for, literally, decades and have BHS, that they do have things in place and can deal with those that are under severe, severe need. I'm guessing there's something in place. And I would say this is, my experience is, if we spend \$15 million, it's not going to-- it will not happen overnight. Things don't move that fast. And I would-- I would like to see some discussion and planning moving forward to have-- perhaps, improve the system so it can have-- it can help more people with the same amount of money and perhaps even spend more money. And-- but that's, that's really a question for the body at a later date.

**WALZ:** So what you're saying is that you think that we have all the resources that we need to handle--

**DOVER:** No, I don't think-- no, no, what I'm saying is there's not enough resources-- anything we deal with in this-- in this body.

**DeKAY:** One minute.

**WALZ:** OK. And, and you're-- but you do think that reducing the amount of resources and funding that would go into behavioral health is a good idea at this point?

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**DOVER:** Could you restate that question, please?

**WALZ:** So what you're saying, though, is that while we analyze and weigh, you think that reducing the amount of funding that would go into behavioral health regions to help people with mental health crisis is, is a-- is a OK idea?

**DOVER:** I would-- I would like-- I would like to see the efficiency company that's been hired to help increase the service and efficiencies of state government do their job, be allowed to do their job instead of going in and then saying this is the time we need to do it. That's the problem, I think, as I stated earlier-- in earlier discussion was, we tend to say this is a time, we have to do it now and we end up throwing money at something when if we would step back, let experts such as Epiphany, Kris Cox do her job, that we would be-- sometimes it's better to wait and plan than to spend.

**DeKAY:** That is your time, Senators.

**DOVER:** Sorry.

**WALZ:** Thank you.

**DeKAY:** Thank you, Senator Dover and Senator Walz. Senator Conrad, you're recognized to speak.

**CONRAD:** Thank you, Mr. President. Good afternoon, colleagues. I rise in support of my friend Senator Fredrickson's amendment, which is critically important to protecting and preserving the already limited amount of resources that we have invested in one of our state's top challenges, and that's addressing our behavioral health needs, our mental health needs for Nebraskans. And I, I don't think we need to belabor the point here, but I want to go on record in support of the measure and I want to be clear about why. Every single group that I have talked to from law enforcement to schools to the business community to ag interests to everyday Nebraskans who are not represented, perhaps, by those different stakeholder entities is crying out for more, not less, resources when it comes to behavioral health and mental health. We talk about it constantly on the Education Committee when it comes to student success. We talk about it constantly on the Education Committee when it talks-- when we talk about school safety. We hear about it constantly when we're trying to address mental health and behavioral health needs of our veterans and Military families. We hear about the toll and the stress that economic

uncertainty brings upon working families, brings upon family farmers. And as we concurrently work to reduce stigma, there is an increased need for services. All of those groups all across the state, all across the political spectrum, did not say we need less money for mental health and behavioral health. They're all clamoring for more. So to cut these funds at this juncture stands in contrast to the needs of Nebraskans, period. Additionally, to my friend Senator Dover's point, and I am looking forward to learning more about the Epiphany process, learning more about the efficiency reviews. Respectfully, he has the sequencing wrong. He and the Appropriations Committee are suggesting that we cut first and study later. It should be exactly the opposite. And that's why we should support Senator Fredrickson's amendment to preserve and protect the investments we've already made in mental health and behavioral health. If and when there are thoughtful ideas put forward as part of a comprehensive plan when it comes to government effectiveness and efficiency, if some of these dollars that we have invested in behavioral health can be better utilized to advance behavioral health or mental health, fantastic. Let's embrace those opportunities. But what is before you is not that proposal. This proposal is a sweep from previous legislative decisions to make investments in behavioral health and mental health and to sweep those for unspecified purposes to support either a murky tax plan or an otherwise murky approach to budgeting. We cannot and we should not be willy-nilly sweeping funds where they are most needed in Nebraska to prop up other things. It is shortsighted and wrong to remove dollars for mental health and behavioral health. And, colleagues, keep in mind, \$15 million is a big investment in mental health and, and behavioral health. But when you sweep it and put it into the General Fund or sweep it and put it into the budget, in general,--

**DeKAY:** One minute.

**CONRAD:** --to support-- thank you, Mr. President-- some sort of forthcoming tax plan related to property taxes, it's not going to be effective in sustaining that plan which has yet to be unveiled, unveiled which may or may not be equitable and a one-time sweep cannot support ongoing tax cut implications. We need to protect the fidelity and integrity of these funds. It's a top need. No one can argue against that. Keep the investment and then continue the study. Thank you, Mr. President.

**DeKAY:** Thank you, Senator Conrad. Senator Moser, you're recognized to speak.

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**MOSEER:** Thank you, Mr. President. I was wondering if Senator Clements would respond to a question or two?

**DeKAY:** Senator Conrad, would you--

**MOSEER:** No, Clements.

**DeKAY:** Senator, Senator Clements, would you yield to a question?

**CLEMENTS:** Yes.

**MOSEER:** So during the discussion, I asked a couple of questions between speakers here. Is there-- are there unused funds carried forward for behavioral health?

**CLEMENTS:** There-- the report I have for Behavioral Health Aid Program 38 showed that in FY '23, they had unspent funds. Yes.

**MOSEER:** It's, like, \$36 million or something.

**CLEMENTS:** Yes.

**MOSEER:** OK. And then there's already an appropriation in the budget for another \$70 million?

**CLEMENTS:** Fiscal year '24 is-- yes, 70-- fiscal year-- \$69.5 in '24 and \$70.3 in fiscal year '25.

**MOSEER:** So \$140 million in the next 2 years for behavioral health.

**CLEMENTS:** Yes.

**MOSEER:** So it's not like there's no money there to help people who are in need.

**CLEMENTS:** Yes.

**MOSEER:** So where is this \$12 million that this amendment suggests adding to it, that would come from General Funds and add on to that \$140 million?

**CLEMENTS:** Yes.

**MOSEER:** OK. I just wanted to make sure that I understood it. Thank you, Senator Clements.

**DeKAY:** Thank you, Senator Moser. Senator Fredrickson, seeing no one else in the queue, you're recognized to close on your amendment.

**FREDRICKSON:** Thank you, Mr. President. So, colleagues, thank you for this discussion. There's a couple things that were brought up that I want to clarify for all of us and for folks who are watching at home. So let me start by saying this. I, I, I appreciate the work of the Appropriations Committee. I think that they were, in many ways, prescribed the, the impossible this year, which was to essentially find \$1 billion for, for property tax relief. So that is-- that's a very ambitious goal. And that's a very difficult process to go to, especially when you're looking towards the amount of sweeps that, that are involved in, in, in, in accomplishing that. So I, I, I want to be very clear that I, I appreciate the Appropriations Committee's work and, and, and, and their thoughtfulness with, with the task at hand this year. Senator Clements got on the mic, and I appreciate him clarifying that. Earlier, we, we, we voted on \$2 million remaining with behavioral health. I, I want to be crystal clear about that. That goes to the Behavioral Health Aid Fund, that goes primarily towards things like housing, that does not go towards treatment. So this is completely separate. And one of my biggest concerns with this is another thing that's been brought up a couple times is that this is a-- this is a request for \$15 million. This is not a request. This is basically saying don't touch this money. This is money that has-- that, that is in last year's budget. It's in the biennium budget. It's being swept out. So it's not asking for \$15 million more for behavioral health. It's basically saying leave it alone. Don't touch it. It's also trying to acknowledge the concerns that were brought up, which were the nursing shortages. So it appropriates \$3 million of these funds to the LRC nursing shortage, and it keeps \$12 million with behavioral health aid. And, you know, if we can kind of look at this in a more global way, this is one of my biggest concerns with the number of cash funds sweeps that we are experiencing right now is that I don't think we're being very thoughtful with every single one of them because it's-- first of all, I think it's impossible cognitively to be so plugged in and engage with every single cash fund sweep we're doing. But when you sweep something like this, \$15 million away from behavioral health, that's not just a one-time thing, that, that, that's gone. And there's not one member of this body who will say, maybe there's 1 or 2, I don't know, but most members of this body are not going to say we don't need funding for behavioral health. Like, you know, Senator Walz was saying earlier, what do we do with the Nebraskans who are suffering who need these services? \$15 million is

being swept. And I understand that there's been some of these funds that maybe not have been-- have not been spent, but there's a number of issues of that and that Nebraskans should not suffer because the department is not getting the funds out quick enough or because something's going on with the regions. We need to find out what's going on with the allocation of the funds. But we can't sit here and say we don't need this money for behavioral health because we absolutely need this money for behavioral health. I do want to highlight really quick-- how much time do I have, Mr. President?

**DeKAY:** 2 minutes.

**FREDRICKSON:** 2 minutes. OK. So there is an article in the Nebraska Examiner from February 27 about the \$15 million cash sweep for the behavioral health funds. And one thing I want to highlight, one thing that was brought up is that Medicaid is covering more of these services. 90,000 Nebraskans were recently kicked off of Medicaid because of the end of the emergency funds from, from the COVID pandemic. So we, actually, have Nebraskans who are losing Medicaid coverage and Medicaid doesn't, in fact, cover all the needs that people have. So that's a concern that I have with that. Behavioral health providers have also said that the state's behavioral health regions say their request for approvals of new programs are being slow walked by the states taking 500 days or longer, that's almost 2 years, which results in artificial surpluses in the budget. So, you know, just because we're seeing this fund sitting here, part of the issue is that it's not that there's a lack of request or a need, part of it is that some of these things are being slow walked. Also, they say some approved programs haven't gotten off the ground yet, resulting in--

**DeKAY:** One minute.

**FREDRICKSON:** --funds-- thank you, Mister President-- appearing to be unexpended when they just haven't spent yet as intended. So some of these funds are also allocated in different ways and just haven't been "spended." So I do think that when we go through and we do these massive, massive sweeps, we're not just sweeping 1 or 2 cash funds this year as you can see from these budgets, we have multiple ones in front of us, and we need to slow down this process and really think what, what impact this is going to have on Nebraskans. With that, I will close. I ask for your support for FA296. I'm going to ask for a call of the house and I'm going to ask for a roll call vote. Thank you, Mr. President.



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**DeKAY:** Thank you, Senator Fredrickson. The question shall be-- we have a request for a call of the house. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

**ASSISTANT CLERK:** 15 ayes, 4 nays to go under call, Mr. President.

**DeKAY:** The house is under call. All unexcused senators, please return to the Chamber, all unauthorized personnel, please leave the floor. The house is under call. All unexcused senators are now present. There has been a request for a roll call vote. The question before the body is the adoption of FA296. Mr. Clerk, please call the roll.

**ASSISTANT CLERK:** Senator Aguilar voting yes. Senator Albrecht voting no. Senator Arch voting no. Senator Armendariz voting no. Senator Ballard not voting. Senator Blood voting yes. Senator Bosn not voting. Senator Bostar voting yes. Senator Bostelman voting no. Senator Brandt voting yes. Senator Brewer voting no. Senator John Cavanaugh voting yes. Senator Machaela Cavanaugh not voting. Senator Clements voting no. Senator Conrad voting yes. Senator Day voting yes. Senator DeBoer voting yes. Senator DeKay voting no. Senator Dorn voting no. Senator Dover voting no. Senator Dungan voting yes. Senator Erdman voting no. Senator Fredrickson voting yes. Senator Halloran voting no. Senator Hansen not voting. Senator Hardin-- Senator Hardin voting no. Senator Holdcroft voting no. Senator Hughes not voting. Senator Hunt voting yes. Senator Ibach voting no. Senator Jacobson not voting. Senator Kauth voting no. Senator Linehan. Senator Lippincott voting no. Senator Lowe voting no. Senator McDonnell voting no. Senator McKinney-- McDonnell is a yes. I'm sorry, Senator. Senator McDonnell voting yes. Senator McKinney voting, voting yes. Senator Meyer voting no. Senator Moser voting no. Senator Murman-- excuse me, Senator, Senator voting no. Senator Raybould. Senator Riepe not voting. Senator Sanders voting no. Senator Slama voting no. Senator Vargas voting yes. Senator von Gillern voting no. Senator Walz voting yes. Senator Wayne voting yes. Senator Wishart not voting.

**DeKAY:** Record, Mr. Clerk.

**ASSISTANT CLERK:** 16 ayes, 23 nays on the adoption of the amendment, Mr. President.

**DeKAY:** The amendment is not adopted. I raise the call. Mr. Clerk, for a motion.

**ASSISTANT CLERK:** Mr. President, Senator Machaela Cavanaugh would move to reconsider the vote on FA296.

**DeKAY:** Senator Machaela Cavanaugh, you're recognized to open on your motion.

**M. CAVANAUGH:** Thank you, Mr. President. I was hoping that people wouldn't rush off quite so quickly. I'm not entirely sure that everyone knew what we were voting on and I'd like to ask Senator Fredrickson to yield to a question.

**DeKAY:** Senator Fredrickson, would you yield to a question?

**FREDRICKSON:** Yes, of course.

**M. CAVANAUGH:** Thank you, Senator Fredrickson. So what your bill does is gives money back that was taken away to behavioral health.

**FREDRICKSON:** Correct. So it's not a new appropriation. It's simply saying don't touch these funds.

**M. CAVANAUGH:** OK. And the outcome of that is there will be less money on the floor.

**FREDRICKSON:** Correct.

**M. CAVANAUGH:** So what we are voting for is whether or not we want to continue to make the same investment that we decided last year we were going to make in behavioral health or if we want to cut behavioral health for whatever we want to do on the floor.

**FREDRICKSON:** Yes, that is correct.

**M. CAVANAUGH:** OK. Maybe now a few people will pay closer attention to what you are attempting to do here. How much money are we talking about?

**FREDRICKSON:** So the sweep would be \$15 million. And my understanding was that part of the rationale for the sweep was to help fund some of the nursing shortage at the Lincoln Regional Center, which is-- which is quite significant and so--

**M. CAVANAUGH:** Yes.

**FREDRICKSON:** --so my amendment actually-- it takes-- it, it, actually, cuts behavioral health funding from \$15 to \$12 million so it does

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still cut what we agreed on last year and then it puts \$3 million into the LRC for-- to help address the workforce shortage with the nursing providers there.

**M. CAVANAUGH:** OK. Thank you.

**FREDRICKSON:** Yep.

**M. CAVANAUGH:** Before I move on, is there anything else that you would like to add?

**FREDRICKSON:** I think that covered it well.

**M. CAVANAUGH:** OK. Thank you. Would Senator Clements yield to a question?

**DeBOER:** Senator Clements, will you yield?

**CLEMENTS:** Yes.

**M. CAVANAUGH:** Senator Clements, why did we cut behavioral health?

**CLEMENTS:** We transferred money out of the cash fund, the \$15 million. I don't think we cut-- we cut it. The, the program I'm looking at has been \$68 million going up to \$70 million.

**M. CAVANAUGH:** Where is that in the bill?

**CLEMENTS:** It's Behavioral Health Aid Program 38 in the HHS budget.

**M. CAVANAUGH:** But we're-- so Senator Fredrickson's amendment is reinstating the money that's cut on pages 34 and 41 and 42 of, of the bill and just reinstating it to what it was last year. So we are cutting.

**CLEMENTS:** All right. Well, that's-- I'd have to review that and get back with you.

**M. CAVANAUGH:** OK. Well, you just voted against it, as did 20-plus other people. And I am really unclear as to if anybody was paying attention. It's behavioral health. We have had numerous conversations inside this body, in the media, across the state, in our classrooms, in our businesses about the importance of behavioral health and that we have a behavioral health shortage and crisis. So why are we taking this money out of behavioral health? Why is this the thing that we are decreasing funding for? And why is everyone willing to do that or at

least 23 people are willing to do that? This was part of the budget that we passed last year. So why is it now that we don't want to fund this? What has changed since the budget last year, other than our desire to fund more projects on the floor? What are we doing? I don't feel like anyone is giving adequate answers to these sweeps of cash funds and these shifts away from programs. What are we doing? We are talking about vulnerable populations. Why are we defunding them or cutting their funding? I just-- I saw no one on this floor and most people scattered as soon as this was over and I was sitting in the lounge, people were chatting. I don't think people were paying any attention to what was going on here. The Lincoln Regional Center is so critically understaffed. DHHS has a thousand openings, a thousand positions open within DHHS. So they've got money, yeah, and they're not going to use it for DD and they're not going to use it for behavioral health. They're going to keep squirreling it away saying they don't need it, take it back. And we should not be taking it back. We should be fighting them and telling them to use it. Hire nurses at Lincoln Regional Center. Here's the money. We're not going to take it back. Use it. Use the money. Take care of people. Do your job. And I am sorry, Senator Dover, but there is a lot you don't know about the consultant that's been hired. You might want to reserve your judgment until you get to know them a little bit better. There is more than one way to do things. And we should not be doing things, projects, pet projects at the expense of all of the work of decades of creating these cash funds to do different programs. And now behavioral health that we all agreed as a body last year was important to fund, we're now going to defund it so that we have more money for the floor-- for the floor. What do we need it for? Tax cuts. Tax cuts. That's what we need it for. That's the big secret. We have on our green sheet, it says we have \$570 million for the floor. Tax cuts. We don't care about the Lincoln Regional Center. We don't care about the workforce there that is suffering. Senator Blood is the only one that even talks about it. We care about tax cuts and not tax cuts for everyone. No, no, no, no, no. Tax cuts for the wealthy. The income tax cuts that we passed last year, we couldn't afford to do a middle income tax cut. We'll never afford a middle income tax cut because we have to afford high earner tax cuts, corporate tax cuts, incentives, and property tax relief. So we can't afford middle income tax cuts. We have to do everything on the backs of the middle income, including forcing people to live paycheck to paycheck when they're working at the LRC. We should not be cutting this funding, and you should not vote red on something if you don't know exactly what you are doing. And, frankly, I am disappointed because, Senator Clements, that was not a

satisfactory answer. You didn't know why you were cutting this money and you voted against it. And I do expect clear answers, and you've given me a lot of great answers. But taking away behavioral health money, not voting to reinstate it, you should have a clear answer why you are doing that. Everyone who voted red should have a clear answer why they are doing that. I saw that Senator Brandt voted for it. I know why, his wife works for DHHS. He understands the staffing crisis. He understands that they need to be funding the Regional Center.

**DeBOER:** One minute.

**M. CAVANAUGH:** Thank you, Madam President. I yield my time.

**DeBOER:** Thank you, Senator Machaela Cavanaugh. Senator Clements, you're recognized.

**CLEMENTS:** Thank you, Madam President. I did find the answer that I wasn't able to answer earlier. It's in the Department of Health and Human Services Agency request this year of their budget adjustment, and it's on the second page of items with them and we had quite a few items, a dozen or more. This is a base reduction in behavioral health. Yes, this \$15 million base reduction. And the director of HHS testified in favor of this and agency comment is: Spending on services have been significantly below the appropriated amount. Implementation of Medicaid expansion is a contributing factor. After this reduction, the fiscal year '24 appropriation would be \$77 million, approximately \$25 million more than the average General Fund spent in recent years. So the idea was to what we call right size the agency to still allow them \$77 million in this current fiscal year and at least \$70 million for the next year, depending on how much is carried over. Then regarding the Lincoln Regional Center, that was item 2 of the agency request, which was requested by the agency and approved by Dr. Corsi. The Regional Center increased cost of staffing, \$15 million is in the budget, an increase from the last year's budget. The census at the adult facilities, primarily Lincoln Regional Center, has risen and HHS is beginning to implement a staffing increase to ensure safety. And so we in committee added \$15 million to Lincoln Regional Center of General Funds. But there is a base reduction of behavioral health. But it was in order to align it with what has been spent. And the agency requested that, the director of-- CEO of HHS accepted that proposal. And so that's the answer I would give for this. Thank you, Madam President.

**DeBOER:** Thank you, Senator Clements. There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**ASSISTANT CLERK:** 12 [SIC--14] ayes, 3 nays to place the house under call, Madam President.

**DeBOER:** The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senator von Gillern check-in. Senator Hunt check-in. Senators McDonnell, Riepe, and Holdcroft, please return to the Chamber. The house is under call. All unexcused senators are now in the Chamber. The-- Senator Machaela Cavanaugh, you're recognized to close on your motion to reconsider.

**M. CAVANAUGH:** Thank you, Madam President. Colleagues, I did a call of the house before closing so that people would actually be in here to listen to what is going on. FA296 takes \$15 million off the floor. Yes, yes, it does. And it puts it back into the behavioral health funding that we voted for last year. The behavioral health crisis has not gone away. It's just a matter of the agencies doing their job. As I said to Senator, Senator Moser, the Department of Transportation has \$181 million sitting in a fund. If they decided to stop fixing roads, would we just say, OK, give us that money back? No, we would say, fix the roads, fix them. Why would this be any different? DHHS is willfully deciding to make its functions dysfunctional. I get we want to have every cent for the floor, but this is important. This is critically important. Please vote to reconsider. And please vote for FA296. And if you are not voting for it, have a reason to vote against reinstating the behavioral health funds that the Appropriations Committee carved out for the floor. Have a good one. Thank you, Madam President.

**DeBOER:** Thank you, Senator Cavanaugh. The question before the body is the motion to reconsider. All those in favor vote aye; all those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk.

**ASSISTANT CLERK:** 18 ayes, 24 nays on the motion to reconsider, Madam President.

**DeBOER:** The motion is not adopted. I raise the call. Mr. Clerk, for the next item.

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**ASSISTANT CLERK:** Madam President-- Madam President, AM37 [SIC] is pending.

**DeBOER:** Turning to the queue. Seeing no one in the queue, Senator Clements, you are recognized to close on AM3070.

**CLEMENTS:** Thank you, Madam President. AM3070 is the General Fund-- changes to the General Fund that, that were agreed on as changes to the committee amendment and the handout I gave you. It does show that this, this amendment reduces General Funds by \$2 million and increases Cash Reserve. We're going to have an increase in the Cash Reserve of \$4 million. And we've discussed the several items on there that are LB1412. And this will-- this was by agreement with several senators to just make some slight adjustments to LB1412. I ask for your green vote on AM3070 and this, this is my last amendment for the budget at this stage. Thank you, Madam President.

**DeBOER:** Thank you, Senator Clements. Seeing-- the question before the body is the adoption of AM3070. All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk.

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

**DeBOER:** The amendment is adopted. Mr. Clerk, for the next item.

**ASSISTANT CLERK:** Madam President, the next amendment I have is FA259 offered by Senator Clements.

**DeBOER:** Senator Clements, you're recognized to open on your floor amendment.

**CLEMENTS:** I withdraw.

**DeBOER:** So ordered. Next item.

**ASSISTANT CLERK:** Madam President, the next item is FA260 offered by Senator Clements.

**DeBOER:** Senator Clements, you're recognized to open.

**CLEMENTS:** I move to withdraw.

**DeBOER:** So ordered.

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**ASSISTANT CLERK:** Madam President, the next amendment would be AM2987 offered by Senator Clements.

**DeBOER:** Senator Clements, you're recognized to open.

**CLEMENTS:** Thank you, Madam President. AM2987 is a request of the Game and Parks Agency and I wondered if Senator Erdman would yield to a question? Are you-- or would-- yeah, would you, please?

**DeBOER:** Senator Erdman, would you yield?

**ERDMAN:** Yes.

**CLEMENTS:** First, I want to tell you what this amendment would do. Previously, in the budget we asked the Game and Parks to restore a lake at Fort Robinson State Park and this amendment would tell them that they could remove the dam at that lake and restore Soldier Creek and just wondered what you would have to say about that request.

**ERDMAN:** OK. Senator Clements, thank you. Last year, you may recall we had designated or appropriated \$5 million to restoration of this lake. And while we were in the process of appropriating money for the lake, they had decided that they were going to drain the lake. And the reason that they were going to drain the lake is because it had an unsafe dam. And the reason the dam was unsafe was because they built a campground below the dam. And so they knew, while we were working on appropriating the money to-- for restoration of the lake, they knew they were going to drain the lake. They mentioned not one word of it, and I went to their, their quarterly meeting at Fort Robinson in October and that lake was just several miles from where the meeting was and there was no mention at that meeting that they were draining the lake and they were doing it as we were meeting.

**CLEMENTS:** OK. Well, excuse me. Thank you, Senator Erdman. I will-- thank you, Madam President. I see Senator Erdman is in the queue. I'll let him speak on his time.

**DeBOER:** Thank you, Senators Clements and Erdman. Senator Erdman, you're recognized.

**ERDMAN:** Thank you, Madam President. Good afternoon again. Yes, Senator Clements, that's exactly what happened. And it was-- it was disappointing because we had considered other improvements at Fort Robinson as well. Senator Wayne worked on that on the Buffalo Soldiers, building a memorial there for them, building and restoring



what used to be the bakery at Fort Robinson. And over my tenure here as a senator, I have tried to work with Game and Parks to get them to do things that were the wishes of this body and they've chosen not to do that. They have had numerous opportunities to spend money on habitat enhancement for fish-- fishing and they have neglected to do that. And so as we moved through the process a year ago, it was my opinion that we need to start designating specific uses for the money. And once we did that, then we would actually encourage them, or should I say, force them to make those decisions that we are desiring them to make. And to my regret, that was still not enough to force them to make the decisions that we wanted them to make. And I was so disappointed when I found out that they were draining the lake instead of enhancing it. And so I am opposed to transferring this money. They should have known-- they should have told us so we would have known what to do with the money rather than come in Johnny-come-lately and tell us, oh, by the way, we're going to drain the dam. And so I'm opposed to AM2987 and I would encourage you to be as well.

**DeBOER:** Thank you, Senator Erdman. Senator Clements, you're recognized.

**CLEMENTS:** Thank you, Madam President. This request came to us fairly late after we had already had the committee amendment prepared and we didn't get to discuss this specific change in committee. I think we may have discussed it some, but we didn't have this particular request. And so I think it was-- is going to be better for the, the Appropriations Committee to consider this in the future. I move to withdraw that amendment.

**DeBOER:** Without objection, so ordered. Next item.

**ASSISTANT CLERK:** Madam President, the next amendment is AM3105 offered by Senator Hansen.

**DeBOER:** Senator Hansen, you're welcome to open on AM3105.

**HANSEN:** Thank you, Madam President. All right. So AM3105, this is a bill to actually give the providers who take care of the most needy citizens of Nebraska a raise for once. What this bill essentially does is if people are familiar with the Health Care Cash Fund, the Health Care Cash Fund is from a settle-- tobacco settlement that we got years ago, and then we give out so much of that money as grants to organizations for certain purposes. And one of the things that we've done since, I believe, 2001 have given out \$10 to \$15 million a year,

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I believe now it's \$15 million a year for biomedical research since 2001 to organizations such as UNMC, Boys Town Research Hospital, Creighton University, maybe not Creighton University, but Creighton Research Facility for biomedical research. Ones who directly or indirectly have benefited from a bill that Senator Jacobson introduced this year about hospital assessment tax increase. And so I've always believed that the Health Care Cash Fund is flexible, is almost like a living document that can change with the times. And so I also think that the priority of the money that we spend here in the Legislature should be used for those who are unable to take care of themselves, who their community may not be able to take care of them, their church, their family, and they do need some more help. Those are the ones I prioritize to help take care of above all else. And so these are-- these are the ones that are in our DD community. If anybody knew about-- saw in the Rotunda out there the other day when they had their DD day, I guess you would call it, full to the brim of amazing individuals and the people who take care of them. And right now, the people who do take care of them, the providers in the state of Nebraska are not being paid very well at all and are leaving the profession to go work at Menards, to go work at McDonald's, they're paying more. And these are people who go to people's homes and take care of developmental disabled individuals. And Nebraska is barely paying them or they're running in the red constantly or closing their facilities. And so I think this is something that deserves our acute attention when it comes to our budget. And so I made the decision with this amendment to take that \$15 million that we give to facilities for biomedical research and instead give it to DD provider rate increases of 8.5%. I believe that should draw our attention and our priority more than most other things. And so I think with the money that we have given facilities over the course of time for research, that I think we can now start looking at other things who might take more of a precedent, who might have a more of a need. And in my opinion, it might not be the opinion of everybody here in the body, but in my opinion these are the individuals that deserve our priority. Not organizations that make millions, if not billions a year. I do not want to diminish the work that they do. I think the biomedical research that these organizations do is beyond compare. I think Nebraska is, actually, one of the best in the country when it comes to biomedical research, that what UNMC does, Creighton, Boys Town Research Hospital, they are amazing at what they do. But when it comes to the money that we spend here, I feel that these individuals deserve that more than these facilities. I did speak with a lot of you on the floor. I understand a lot of people are in favor of this amendment.

Some of you aren't for various reasons and I get it. Some people feel like research is also a priority that we should be looking at. Some people don't want to touch it right now. Some people might want to look at this next year. Some people want to get after it this year and help these individuals. So-- and with talking with the Appropriations Committee, with talking with many of you, I at least want to get up here and address this. And this is something that-- is something that we-- that we or myself, in particular, are going to be looking at very specifically next year. I encourage the administration and the department to work with us. I hate to anytime go over people's heads if we have to, but this is something that is-- and is in dire need and I don't think is getting enough attention sometimes from our body. So I brought this amendment and I don't want to-- right now, I, I think from the concerns of the Appropriations Committee and some of my colleagues, I am going to pull this amendment when I'm done speaking. So I will not, you know, put many of you in the hot seat by taking this to a vote right now. And so-- but next year, this bill will come again if we don't do something about it, so. So with that, Madam President, I will withdraw my amendment. Thank you.

**DeBOER:** So ordered. Mr. Clerk, for the next item.

**ASSISTANT CLERK:** Madam President, Senator Ibach would move to amend LB1412 with AM25-- or excuse me, with AM3062.

**DeBOER:** Senator Ibach, you are welcome to open on AM3062.

**IBACH:** Thank you very much, Madam President. Good afternoon. Today, I rise to present AM3062 to begin a discussion for next year much like Senator Hansen. Over the last few years, the Legislature has enacted numerous tuition waivers for students to attend the university, the state colleges, and community college free of cost. For instance, just last year in LB727, the Legislature enacted the First Responder Recruitment and Retention Act. This act allowed law enforcement officers, legal dependents of law enforcement officers, professional firefighters, and legal dependents of professional firefighters to receive a 100% waiver of tuition to any state university, state college, or community college. As a result of LR153, which was an interim study waiver to examine the fiscal impacts of these waivers, the university system produced a report that since the fall of 2018, nearly 4,000 waivers were granted to students from one of the five waivers defined under the Nebraska law with the university system waiving nearly \$20 million in tuition due to state-mandated waivers. Data from the state colleges says that for the fall semester of 2023,

just over \$129,000 was waived. I understand the desire to increase enrollment in institutions of higher learning, especially here in our state. However, these unfunded mandates will cause at least-- at least these two things to happen. One, the availability of specialized programs and need-based program tuition waivers are decreased and, two, increased tuition costs for other students. While I do not know the complete impact for every legislatively mandated waiver at this time, AM3062 would have reimbursed the university system and state college systems for the amount they projected when they submitted their fiscal note for LB727 for the First Responder Recruitment and Retention Waiver. For the state college-- for the state colleges, it would increase the state appropriations by \$187,014. And for the university system, it would increase the state appropriation by \$765,163. If we are going to mandate-- mandate that these waivers be provided to certain individuals, we should rely on-- we should not rely on other students to fund these waivers. Instead, as we enact these waivers, we should be on the hook for them. I want to put this on your radar now because I will be looking to introduce legislation next year to address this issue. With that, thank you, Madam President, and I withdraw AM3062. Thank you very much.

**DeBOER:** So ordered. Mr. Clerk, for the next item.

**ASSISTANT CLERK:** Senator Clements would move to amend the bill with AM2950.

**DeBOER:** Senator Slama, you are recognized to open-- Clements, you are recognized to open on your motion-- amendment.

**CLEMENTS:** You're recognizing me? I withdraw.

**DeBOER:** So ordered.

**ASSISTANT CLERK:** Senator, AM2950.

**DeBOER:** Senator Clements, you're recognized to open on AM2950.

**CLEMENTS:** OK, just a minute. I'm reviewing this. This was a change in HHS of \$30 million. Hang on, please. We incorporated this into a previous amendment so I withdraw this amendment.

**DeBOER:** So ordered. Next amendment.

**ASSISTANT CLERK:** The next amendment, Madam President, is AM2945, introduced by Senator Dungan.

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**DeBOER:** Senator Dungan, you are recognized to open on your amendment.

**DUNGAN:** Ooh, shocking. I would move to withdraw that.

**DeBOER:** So ordered. Next amendment.

**ASSISTANT CLERK:** Madam President, the next amendment is AM2969 by Senator Machaela Cavanaugh.

**DeBOER:** Senator Machaela Cavanaugh, you're recognized to open. Senator Machaela Cavanaugh withdraws. So ordered.

**ASSISTANT CLERK:** Madam President, the next amendment is FA280 offered by Senator Machaela Cavanaugh.

**M. CAVANAUGH:** Withdraw.

**DeBOER:** So ordered. It's been withdrawn.

**ASSISTANT CLERK:** Senator Machaela Cavanaugh, I have AM-- or excuse me, FA282, FA281, FA284, and FA283, all with the note that you wish to withdraw them.

**DeBOER:** So ordered.

**ASSISTANT CLERK:** Senator Fredrickson, I have AM2983 with the note that you wish to withdraw.

**DeBOER:** So ordered.

**ASSISTANT CLERK:** Senator Brewer, I have AM3008 with a note that you wish to withdraw.

**DeBOER:** So ordered.

**ASSISTANT CLERK:** Senator Clements, I have MO1251 and MO1252, both with notes that you wish to withdraw.

**DeBOER:** Without objection, so ordered.

**ASSISTANT CLERK:** I have nothing further on the bill, Madam President.

**DeBOER:** Senator Ballard, for a motion.

**BALLARD:** Madam President, I move that LB1412 be advanced to E&R for engrossing.

**DeBOER:** Colleagues, you've heard the motion. All those in favor say aye. All those opposed say nay. The bill is advanced. Mr. Clerk, for item.

**ASSISTANT CLERK:** Madam President, I have a-- your Enrollment and Review Committee reports LB1344 to Select File. Your Committee on Education, chaired by Senator Murman, reports LB231 to General File as well as LB915 to General File, also LB1284 with committee amendments. I have an amend-- Senator Blood would-- has amendments to be printed to LB399. Senator John Cavanaugh has amendments to be printed to LB1204A. Senator Brewer would offer LB887A. A bill for an act relating to appropriations; to appropriate funds to aid in the carrying out of provisions of LB887. Senator Walz, LB1052A. A bill for an act relating to appropriations; to appropriate funds to aid in the carrying out the provisions of LB1052. Senator Walz, has LB1054A. A bill for an act relating to appropriations; to appropriate funds to aid in the carrying out of the provisions of the LB1054. Senator Machaela Cavanaugh has LB62A. A bill for an act relating to appropriations; to appropriate funds to aid in the carrying out of the provisions of LB62. Senator Machaela Cavanaugh, LB870A. A bill for an act relating to appropriations; to carry out funds to aid in the carrying out of the provisions of LB870. Senator Dungan would-- LB1115A. A bill for an act relating to appropriations; carry out funds to aid in the carrying out of the provisions of LB1115. I have-- I have nothing further, Madam President.

**DeBOER:** Mr. Clerk, for the next item on the agenda.

**ASSISTANT CLERK:** Madam President, LB441, introduced by Senator Joni Albrecht. A bill for an act relating to crimes and offenses; to amend Section 28-815, Reissue Revised Statutes of Nebraska; to change provisions relating to defenses for offenses involving obscene materials; to harmonize provisions; and to repeal the original section. The bill was read for the first time on January 13, 2023, was referred to the Committee on Judiciary. That committee placed the bill on General File with amendments. Pending, Madam President, is a bracket motion.

**DeBOER:** Senator Albrecht, you're recognized to-- for a 1-minute refresh.

**ALBRECHT:** Thank you, Madam President. Colleagues, we're going to go right back to where we left off last night. And this is about LB441. It closes an unintended loophole with the Nebraska obscenity law. It

would revise state statute 28-815. Primarily, would follow it-- it-- basically, it's a defense to a prosecution under Section 28-813 that such person's activities consist of teaching a regular established or recognized postsecondary education institutions or galleries. Basically, what it says is K-12 schools and the libraries within them is what this bill is about. And the criminal penalties are already in law. We just-- we just put the K-12 schools and libraries within the privy of the rest of our state when it comes to obscenity laws. So thank you, Madam President.

**DeBOER:** Thank you, Senator Albrecht. Senator Conrad, you're welcome-- recognized for a refresh on your bracket motion.

**CONRAD:** Thank you, Madam President. Good evening, colleagues. I filed a bracket motion to help structure the debate on this measure. This is a filibuster on this measure. It seems clear that, perhaps, Senator Albrecht has, maybe, a majority to pass it. That's not clear, but she does not have a supermajority to move it beyond filibuster. I'd be happy not to go 8 hours, but here we are. This is a thinly veiled attempt to ban books that seeks to weaponize our criminal law against teachers and librarians. This stands in sharp contrast to what we should be doing when it comes to extending protections for academic freedom and free expression. So I'd ask members to support the bracket motion which would kill the bill.

**DeBOER:** Thank you, Senator Conrad. Returning to the queue, Senator Conrad, you're first in the queue. You are recognized.

**CONRAD:** Thank you, Madam President. And good evening, colleagues. I know that this has been a topic of great discussion as to why this measure reappeared on our agenda today. As you all well know, the Speaker has the sole decision-making when it comes to setting the agenda unless a motion to reorder is successful which it rarely, if ever, is. I think that it has the potential to "respark" a tinderbox of dissension and controversy. But, nevertheless, I, being the optimist I am, am glad that this measure has reappeared on the agenda, because it's time that we send a definitive statement that we support free expression and free speech. Even when we find content disagreeable, we should not weaponize the tools of government to punish speakers, to punish teachers, to punish librarians. If we extend that grace for our constitutional values and principles to each other for tough speech, for offensive content, we should extend the same to librarians and teachers that are in the crosshairs of this measure. I stated yesterday, and I reaffirm that my friend Senator

Albrecht cares deeply about protecting children. I understand and appreciate that. However, I disagree with the remedy put forward in LB441. It does not close a loophole. It disrupts a statutory scheme that was intentionally designed in the wake of Supreme Court precedent establishing and defining the contours of obscenity to ensure that there is no unnecessary entanglement in the criminal law for librarians, teachers, and others. This, specifically, removes legal protections for librarians and teachers while leaving legal protections for others, which lift significant policy and legal questions that have yet to be answered and we'll have time to delve into together this evening. To be clear, colleagues, this is part of a national movement to ban books, to target teachers, to target librarians, and to chill speech that we find offensive or uncomfortable. But just because we find it offensive or uncomfortable does not make it obscene. This measure was not brought forward by our chief law enforcement agents, the Attorney General, the county attorneys, law enforcement, deputy sheriffs, city police. They did not join the call for this measure saying we have a problem with obscene materials being presented to minors in Nebraska because we don't. We have disagreements with the content of some books. They may not be right for our children. They may not be right for our family. The remedy to address that is as a family. The remedy to address that is not to call them obscene, which they are not. The remedy to address that is not to drag librarians and teachers into criminal court with criminal charges, which this measure would make it easier to do. And we have to be consistent even when it's hard, even when we find--

**DeBOER:** One minute.

**CONRAD:** --the speech-- thank you, Madam President-- hard to hear. And I have been consistent, and I'm asking you to do the same. Whether it's measures brought before the Education Committee that seek to chill or weaponize tools of government against, against academic freedom, against diversity, against SEL, against S-- CRT, whether it's measures brought to the Government Committee that seek to weaponize the criminal law against those who disagree with election results, which I have also spoken out as, as dangerous, whether it is this measure that seeks to weaponize and punish speech, we need to be consistent. The goal is to protect free expression. The goal is not to criminalize librarians, teachers, or speech we find offensive. If you agreed with my comments this morning,--

**DeBOER:** Time, Senator.



**CONRAD:** --you will support my bracket motion this evening. Thank you, Madam President.

**DeBOER:** Mr. Clerk, for an announcement.

**ASSISTANT CLERK:** Madam President, the Retirement Committee will hold an Executive Session in Room 2022 now.

**DeBOER:** Thank you, Mr. Clerk. Senator Dungan, you're recognized.

**DUNGAN:** Thank you, Madam President, and good evening, colleagues. I do rise today, again, in support of the bracket motion on the board from Senator Conrad and opposed LB441. Before I get started, I, I want to say that I, really, again, appreciate the conversation that we had for the majority of the day yesterday. I think that we actually had a very measured and honest conversation about a lot of the issues that many of us saw with the bill. And I want to specifically commend Senator Albrecht, who is, I think, obviously very passionate about this issue but was answering questions and, I think, doing a fantastic job of, of being here all day and keeping this a very level conversation. So I appreciate that, because oftentimes with conversations about things like this, it can get heated. And I was, obviously, disappointed with the way and, frankly, disgusted with the way that things went at the end of the night last night. My hope is this evening, as we delve into another late night, we can avoid those kind of things. That being said, I want to go back to some of the concerns that I have with this bill and, I think, Senator Conrad did a very good job of opening up the conversation here. I think that there are two real levels of concerns that I have. One is not more serious than the other but they are separate. One, are the legal issues that I have with the way this is written and with the complicated sort of nature with which these operate and the problems that I have with it constitutionally. The other is more of a 30,000-foot-view problem that I have with these kind of bills, and that gets more into the broad spectrum of the concerns that I have when we start to talk about censoring things that make us uncomfortable, censoring things that may not be the most pleasant to read, but still carry with them literary, artistic, historical, or political value by virtue of the broader context within which those things that are uncomfortable are found. I have a number of friends that wanted to be teachers. I have a number of friends who became teachers after a lifetime of wanting to do that job. And not just 2 years or so after they became teachers, they quit. In Nebraska, we currently are facing a teacher shortage, a crisis of people in the profession. And when asked why my friends quit being a teacher, chief

among the many reasons that was often given was the amount of things, I'm going to put it politely, that they had to put up with as a teacher based on the broader attacks that we are seeing right now on education, the broader attacks that we are seeing at the school board meetings, and the broader attacks that we're seeing on those who are simply trying to educate our youth. They found it nearly unworkable the amount of pressure and stress that they were dealing with. This issue that we're dealing with today that has been raised at school board meetings and that we're talking about here in the Legislature with this bill is one of the blocks of the foundation of this entire movement that seems to be seeking to, again, censor those books, ban those books, or push back on things that make us uncomfortable, specifically, oftentimes things that are maybe not in the norm. Oftentimes, when people quote these books that they're talking about that are being banned, they are things that fall, for example, into the LGBTQ community and things like that. And so I am concerned that there is a broader movement that we see afoot in Nebraska that potentially puts us in a bad position to encourage more people to become teachers. And, and we are not in a place right now where we can say come to Nebraska, be a teacher, we're going to support you when we as a state have systemically attacked some of those people. So that's, that's part of my concern, and I'm sure I'll have a chance to talk about that more later. I wanted to go back to talking more about the legal side of this issue, though. This bill, specifically, removes the affirmative defense that is available for teachers and librarians in both K-12 institutions, but also public libraries the way that it's written. And I think that's a very important thing to note. Just because we remove the affirmative defense, this, this, this--

**DeBOER:** One minute.

**DUNGAN:** --thank you, Madam President-- this bill has no bearing on whether or not a person can be charged. As the law currently sits today, an individual who's distributing obscene material in a K-12 school or in a-- in a city library could be charged under our obscenity statutes. They simply have available to them the affirmative defense that what they were doing was essentially within the purview of their job as a teacher. And so I just want to be very clear, the idea that there's a loophole that right now people are distributing obscene material and by virtue of the fact that they're teachers or librarians can't be charged, I disagree with that. If these things were happening in schools and if the material were, in fact, obscene charges could be brought if both police and a prosecutor determined there was probable cause to say that this was actually a violation and

that person would be charged and they'd have to go through the legal process. So I'll get back on the mic, and I want to talk a little bit more about what the actual consequences of this would be if a teacher or librarian were charged as I think that's an important thing for us all to note. Thank you, Madam President.

**DeBOER:** Thank you, Senator Dungan. Senator John Cavanaugh, you're recognized.

**J. CAVANAUGH:** Thank you, Madam President. Well, colleagues, I, again, rise in support of the bracket motion and opposed to the underlying bill. And I would just start, like my other colleagues, in thanking Senator Albrecht for how she's conducted herself in this debate, been impressed at her willingness to answer questions and to have a conversation about a complex and, obviously, emotionally charged topic. And it is when you have a [RECORDER MALFUNCTION] doesn't like and it's being filibustered, it can be-- feel like you're under siege. So I think Senator Albrecht should be commended for that. That said, I do have a fundamental disagreement with Senator Albrecht about this bill, and I oppose it for a number of reasons. But I did want to make a few other points in reference to the conversation we've had. I know folks maybe are anxious to move on from it. But Senator Halloran's comments last night, and, you know, you get-- well, for the folks in the room know this about me and the press who are sitting off on the side. But for the folks at home who don't know everything, who can't see the whole room, often I'm on the floor off, away from my desk and pacing under the eaves there, listening and formulating my thoughts. So last night, I was subjected to some questions from a colleague, and I was out of times to speak. And so I was not-- I didn't think-- wasn't able to give full answers, which is a common thing when you're having a rapport with somebody on the microphone. So I asked Senator Hunt to yield me some time so I could respond to another colleague's questioning of me so I could give more complete answers. And so while I was over on the side formulating my thoughts on that and listening to Senator Halloran, that's when Senator Halloran decided to engage in his recitation that included his direction at myself or the other Senator Cavanaugh. I raised that because in Senator Halloran's apology, as you may find it, he went to one of the more tired tropes of all people who have offended and tried to, at least in some way, blame the people whom he offended. Meaning he said that I wasn't listening to him or Senator Machaela Cavanaugh wasn't listening to him. So I just think it bears mentioning that, one, that's not even true. And two, it is not a justification or an excuse. And it is, again, one of these tired tropes that people go into to make

themselves feel better or what have you. So I'm going to try to limit that to the sum total of my comments as it pertains to the conversation last night. However, I would again point to it as a great learning experience for everyone here about what we are talking about when we're defending what we find inappropriate or undesirable speech and still being protected. So returning to the conversation about the bill at hand, and I think a few things are important to point out. One is Senator Albrecht in her refresh about the bill said that it takes away the affirmative defense for K-12 schools and their libraries. A plain reading of the bill will just-- it's just not-- that is not accurate. The bill strikes the protection for public libraries. So that-- what that means, even in the most generous, generous interpretation, is that we're talking about books that I could read. This bill does not do what Senator Albrecht is arguing it does.

**DeBOER:** One minute.

**J. CAVANAUGH:** Thank you, Madam President. It doesn't do a lot of other things, but the things it does do are bad. It has a chilling effect on speech. It is part of a broader culture war. It's about putting our teachers and our librarians in fear for their jobs and their careers and their freedom by putting out books that some people might not like. That is what this bill is geared towards. It's geared towards putting fear into the hearts of our public servants who want to share the joy of reading with young people. And we should be encouraging those folks, and we should be trying to incentivize more people into that field. And this bill is going in the wrong direction for that. So I'll push my light because I've got more things to say about the subject. Thank you, Madam President.

**DeBOER:** Thank you, Senator John Cavanaugh. Senator Walz, you're recognized.

**WALZ:** Thank you, Madam President. I yield my time to Senator Conrad.

**DeBOER:** Senator Conrad, you're yielded 4 minutes, 52 seconds.

**CONRAD:** Thank you, Madam President. And thank you, Senator Walz, for the time. Colleagues, I wanted to, in addition to some global notes, that I wanted to reaffirm that librarians do not provide access to legal-- legally obscene materials. This bill will only worsen the shortage of qualified teachers and school librarians and librarians across Nebraska who are carefully trained professionals, who take a great deal of pride in their work, as they should, who adhere to

community and professional standards as they conduct their work as teachers and as librarians. And by targeting them with rhetoric, by removing political-- by removing legal protections, it just heightens the culture wars that they're on the front lines on in our schools. And it's already hard enough. They're asked to do more and more with less and less resources. And now some of the most challenging and controversial and raucous and toxic aspects of our-- of the brokenness in our politics today is happening on the front lines of our schools. And I heard a lot of school bashing yesterday as part of this debate as well. And we'll have enough time to set the record straight about why Nebraskans are rightly proud of their public school-- schools, how successful our students and teachers are on a host of different comparative data points. And I, I just want to be very clear. I know this not just from the data. I know this from my own experience as a student in public schools, kindergarten through law school. I know this as the experience of a daughter of a public school teacher, and I know this as a mom of 2 young kids, one in elementary school and one in middle school in Lincoln today who's actively involved in what's happening in their schools. In addition to generalized bashing of public schools and teachers and librarians, there also was a lot of talk yesterday about an attempt to or a need to relitigate what happened in regards the State Board of Education's effort to adopt health standards for our state. And I want to, to point out a couple of things there, friends. Number one, the issues at play in regards to the State Boards of Education's effort to update our curriculum standards regarding health education did not come to fruition. The public spoke out. Senator Albrecht and others helped to lead political opposition, and that effort was stymied. There is no need to relitigate that from the perspectives of those who are opposed to comprehensive, age appropriate sex education, because your side prevailed within the existing process. And those issues are not squarely within the purview of LB441. If you seek to remove content you find disagreeable from the shelves of libraries, this is not your remedy. If you seek to end and chill discussion of comprehensive sex education on the state level--

**DeBOER:** One minute.

**CONRAD:** --or on the local level, this is not your remedy. This remedy simply targets librarians and teachers while leaving protections in place for others, including artists and the news media, without any explanation as to why. From the proponents of this measure who proclaimed that any access to any offensive or obscene materials should be prosecuted in the criminal justice system, yet leave in

place protections for other Nebraskans involved in expressive fields, and thank goodness they do, because that's appropriate from a First Amendment perspective. But the proponents of this measure have not talked about why they're picking and choosing, why they're solely targeting teachers and librarians if they're deeply concerned about these issues.

**DeBOER:** Time, Senator.

**CONRAD:** Thank you, Madam President.

**DeBOER:** Thank you, Senator Walz and Senator Conrad. Senator Dover, you're recognized.

**DOVER:** Thank you. I guess I want to just-- I have actually make some comments from that were from last night, actually, that we-- I didn't get an opportunity to say and, I would like to address, I guess, what Senator Conrad had just said. Said that artists and news media should-- art-- [INAUDIBLE] protection and school, the school teachers and the librarians don't. But I do think that we do need free speech protection for artists and news media. And I think sometimes it seems [INAUDIBLE] Senator Cavanaugh and I were speaking last night, that we really-- both sides seem to be making their points, and the points that they're making don't seem to be on the same plane. But I think it's more of a question of what's appropriate in a school as opposed to freedom of speech. But I do believe that we do need freedom of speech for adults. I just think we need to be careful what's appropriate in a school. I also want to say about today is it seems like there's more harsh words that are being said today. And, I mean, I think I'm learning why people get up and talk and what words they use and stuff. I mean, I'm new here. But when we hear, I mean, drag teachers and librarians into jail, weaponized schools and governments, criminalize free speech, I think those are like, I don't know, kind of accepted. They aren't code words, but they're words that are, I don't know. In a way, I hate to say weaponized, but I guess along those lines. But I don't know why we have to use such harsh words. I mean, I guess if you see a situation as being very harsh, you use harsh words and stuff like that. But I don't know that-- I would say this. I don't believe, I guess, Senator Albrecht, do you have-- could you answer a question for me?

**ARCH:** Senator Albrecht, will you yield?

**ALBRECHT:** Yes.

**DOVER:** Is the purpose of your bill to drag teachers and librarians into jail, weaponize schools and governments, criminalize free speech?

**ALBRECHT:** Absolutely not.

**DOVER:** Thank you. And I'm going to jump over back to last night. And Senator Brandt had made a suggestion that perhaps we should look at a state standard. I just wanted to speak to that. And I was thinking-- I try to think through it like Senator Cavanaugh does, John Cavanaugh. And I think if we have a state standard, what's, OK, why not a national standard? And I think, well, you know, obviously California would have things in their li-- in their school libraries where North, North Dakota probably wouldn't think that's appropriate. So I think if, if that kind of makes sense to me, I'm thinking, obviously, I think that in Nebraska then I think there's probably things that Omaha may have in their schools that Thedford may not. I think that's local control so critical in schools. I think that's why we have a locally elected school board. So I think-- I think that's good. And I understand that, you know, we're never going to agree here in this body as far as what's appropriate and what's not. I think-- I think that would be very seldom. That's why we have our discussion and debate. I want to say one last thing in closing, that I knew a family that was moving from California and they moved to the Midwest. And the son of the father, he told me that his daughter was probably 3 years ahead of other girls sexually here, and was kind of surprised. And he said that the-- he thought probably due to environment and education and stuff like that. And he said the other girls were really naive. And I just would say this. I have 3 daughters. OK? I tried-- I tried to raise them up to be as naive as possible to a degree. OK? I'm not-- I'm not foolish. OK? And as they, as they got older and those discussions were more appropriate, I talked to them. But I really believe that being naive in youth is OK. I really believe being innocent in youth is OK. And I really believe our children deserve a time to have their innocence. And I think that's really why I support what we're doing. I think a number of people do here. So I think please support LB441 to allow our children to enjoy the life and innocence they deserve. Thank you.

**ARCH:** Senator Albrecht, you're recognized to speak.

**ALBRECHT:** Thank you, Mr. Speaker. And I just want to kind of take us back a little bit. Yesterday, for those of you who might not have heard everything that was said on the floor, I have a stack here on my desk of the testimony of letters of, like, I have a book. But I asked

everyone who came over, please do not read this on the floor. I cannot control the, the narrative on this floor. But when it comes to this profanity and the, the explicit wording of every single page in a book that these people are reading, I just-- that's not me. I'm not going there. My first year and I was with Senator Chambers, a gentleman that taught me a lot about a lot of things that happen on this floor. And I respected him for coming to me and apologizing for the continuation of Senator Kintner over and over and over, for days and nights with fourth graders in the balcony. All of that was very disturbing to me. I mean, I'm coming here for the first time, and this is-- this is what I walked into. This has been going on, you know, with, with the people on the floor. There's always someone that wants to, to go at it, but that's, that's where they're coming from. I did-- I did not ask anyone to do anything of the liking that took place last night. But I want you, when you listen for the next 4 hours or 5 hours, to know and understand that, that truly what was said last night, that's horrible. We all have to think, are you kidding me that this would be something that children have to read and then answer questions to in class with their peers? That can't happen. It's-- that is obscenity at its finest. But this, this bill is important to me. It's in the last 4 years since we had the health standards, the State Board of Education has had people like hundreds and hundreds of people, and I'm talking hundreds and hundreds of people-- I went to one of them with 500. I mean, this-- the school boards are getting inundated with this type of stuff. There comes a point where we, as legislators, have got to face the music and figure out what we can do to help the schools, to help the children, to help the teachers, to help the librarians. And I will be on the mic stating that, you know, we're going to change this narrative and move the ship a little, a different direction tonight. We're not going to talk about the teachers and the librarians. We're going to talk about the Department of Education, the State Board of Education, the districts, the school boards who need to be responsible so things like this would never have to happen under their watch. OK? But the obscenity bill must go through so that we can protect them. And I'm going to talk about last night-- many were not on the floor-- but Article VII of the Constitution of the State of Nebraska says that the State Department of Education shall have general supervision and administration over school system of the state and of such activities as the Legislature may direct, as we may direct. It also says that the duties and powers of the State Board of Education shall be prescribed by the Legislature, that's us, to take this into consideration. And the Commissioner of Education--



**ARCH:** One minute.

**ALBRECHT:** --shall have the power and duties as the Legislature may direct. It's the Legislature's responsibility to provide guidance and guidelines to ensure that all children are protected. Again, K-12 educational institutions are not protected from obscenity today. That's what we're talking about. And that's it. The laws already, already in-- inform. It's in concrete. We just have to put them under the rest of us. They don't get a pass. They're not above the law. I mean, it's the law of the land. But in K-12 schools, institutions and libraries, they are not. And this is not about public libraries. Public libraries, you can still take your children in and, and, you know, it's a free-for-all. They can read whatever they want. But under the public school system, they have got to have some guidelines.

**ARCH:** Time, Senator.

**ALBRECHT:** Thank you, Mr. President.

**ARCH:** Senator Wishart, you are recognized to speak. Senator Lowe, you're recognized to speak.

**LOWE:** Thank you, Mr. President. I wasn't expecting to get up that quick, but that's the way it is. I'm going to read from a book that when I was in high school, the librarians decided to remove it from the libraries, not only in Kearney, but across the state. Some of you may recognize this book. The front door to the house opened. A man and a woman stepped out onto the wooden porch. They stood for a moment, staring at the sea, embraced quickly, and scampered down a few steps onto the sand. The man was drunk and he stumbled on the bottom step. The woman laughed and took his hand and together they ran to the beach. First a swim, said the woman, to clear your head. Forget my head, said the man, giggling. He fell backward onto the sand, pulling the woman down with him. They fumbled with each other's clothing, twined limbs around limbs, and thrashed with [INAUDIBLE] on the cold sand. That was why the book was banned. That's why they removed it was those words, not the following words. After the man laid back and closed his eyes, the woman looked at him and smiled. Now how about the swim, she said. You go ahead. I'll wait for you here. The woman rose and walked to where the gentle surf washed over her ankles. The water was colder than the night air, for it was only mid-June. The woman called back, you sure you don't want to come? But there was no answer from the sleeping man. She backed up a few steps, then ran to the water. At first her strides were long and graceful, but then the small

wave crashed into her knee. She faltered, regained her footing, and then flung herself over the next high wave. The water was only up to her hips, so she stood, pushed the air out of her eyes, and continued walking until the water covered her shoulders. There she began to swim with a jerky head above the water stroke the untutored. A hundred yards offshore a fish sensed the change in the sea's rhythm. It did not see the woman nor did it smell her. Running the length of its body were a series of thin canals filled with mucus and dotted with nerve endings. These nerve endings detected vibrations and signaled the brain. The fish swam toward shore. The woman continued away from the beach, stopping now and then to check her position by the light shining from the house. The tide was slack, so she had not moved up or down the beach. But she was tiring, so she rested for a moment, treading water, and then started for shore. The vibrations were now strong. The fish recognized the prey, the sweeps of its tail quickened, thrusting the giant body forward with speed that agitated the teeny phosphorescent animals in the water and caused them to glow, casting a mantle of sparks over the fish. The fish closed on the woman, hurled past a dozen feet to the side and 6 feet below the surface. The woman felt only a wave of pressure that seemed to lift her up in the water and ease her down again. She stepped-- stopped swimming and held her breath. Feeling nothing further, she returned-- returned-- resumed her lurching stroke. The fish smelled her now and the vibrations, erratic and sharp, signaled distress. The fish began to circle close to the surface. Its dorsal fin broke the water and its tail thrashing back and forth. Cut the glassy surface with a hiss, a series of tremors shook its body. I won't read the rest of it now, because we all know what happens. This is the book, Jaws.

**von GILLERN:** One minute.

**LOWE:** Thank you, Mr. President. This book was removed from our school libraries when the morals of our people were better, when people thought about what they wanted to teach and how it should be taught. Senator Machaela Cavanaugh, you brought this to my mind yesterday when you mentioned "jump the shark." I was trying to think of what to say, and then you reminded me. So I thank you about that. I thought it was a good story and one of my favorite movies and the reason why I'll never swim in the ocean. Thank you, Mr. President.

**von GILLERN:** Thank you, Senator Lowe. Senator Day, you're recognized.

**DAY:** Thank you, Mr. President, and good evening, colleagues. I honestly had hoped that we were going to avoid continuing this

conversation after what happened last night. But unfortunately, here we are and we have several more hours to go. So we have had several people on the mic who have law expertise, legal expertise, who have explained it from a constitutional perspective and from a legal perspective. And I just wanted to get up and talk a little bit about from my perspective as a mother and also my perspective as a survivor of sexual assault. I absolutely understand and agree that Senator Albrecht's intentions with the bill and her heart are in the right place. I truly believe that she thinks that by removing this type of material and these types of books from libraries and from curriculum that we are protecting children from abuse or pedophiles or any of the other awful things that happen to children, early sexual experiences that are inappropriate. But research tells us that that's the opposite of the truth. We know that there are specific things that protect kids from abuse, sexual abuse, from predators. And it's definitely not keeping kids naive. When a child is naive, they are more susceptible to abuse. They are more susceptible to predators. The book that was read on the floor last night I had read and I knew immediately when the title was mentioned what it was about. I was sexually assaulted when I was 15 years old. And I will say that part of the reason that I was in the situation that I was in, because I was too naive to know any different because I was not given the information that I needed to be able to protect myself from that type of abuse. We know for a fact, and it's research fact, that things like comprehensive sex education and teaching children about the proper names for their body parts and what they're used for are the things that protect children from abuse, not banning what we consider to be obscene information. I think as a parent, I have 2 boys, and when you have children, your initial instinct is always to put them in a bubble and protect them from everything. You think that by, by putting them in a bubble and keeping them away from people, information, events, things that we're somehow going to prevent bad things from happening to them. But that's not reality. And as your kids get older, or at least as my kids have gotten older, I've learned that I have to teach them about the realities of the world that exist and the potential and the threat for danger that exists in the world in order to protect them from it. And that has been one of the most important parts of my parenting journey as a survivor--

**ARCH:** One minute.

**DAY:** --of sexual assault. Thank you, Mr. President. Additionally, if a 15-year-old girl can be sexually assaulted by a 25-year-old man, why do we think that her reading about a rape scene in a book is going to

be the problem for her? The fact is, reading books like this-- and this is also a well-researched fact-- reading books like this cultivates empathy in human beings. It is a researched fact that reading stories like this, in which that story was taken out of context, so it's unfair to look at it out of context, but reading those real-life happenings provide kids--

**ARCH:** Time, Senator.

**DAY:** Thank you, Mr. President.

**ARCH:** Colleagues, we will now stand at ease for 30 minutes. And the next 3 senators in the queue are Senator Dungan, Senator John Cavanaugh and Senator DeBoer.

[EASE]

**DeKAY:** Mr. Clerk, for some items.

**ASSISTANT CLERK:** Thank you, Mr. President. I have communication from the Governor. A series of appointments to the Environmental Quality Council and to the Nebraska Public Employees Retirement Board. Amendments to be printed to LB1329 by Senator Conrad and amendments to LB1329 by Senator Ballard. New bill: LB1355A by Senator Vargas. First read on March 19 of 2024. Bill for an act relating to appropriations; to appropriate funds to aid in the carrying out of the provisions of LB1355. That's all that I have, Mr. President.

**DeKAY:** Thank you, Mr. Clerk. Returning to the queue, Senator Dungan, you're recognized to speak.

**DUNGAN:** Thank you, Mr. President. And good evening, colleagues. I have the distinct honor and pleasure of being the first speaker yet again after our quick evening break. This was me yesterday. Currently, I think about 4, 5 other senators in the room. So I appreciate you all being here. And I know we're going to continue to have a long conversation, but it's kind of funny talking to an empty room like this. Nope. Senator McKinney just walked in. That's one more. I feel like the opening act at a local show in Omaha, where there's about 4 people standing in the front of the stage. But nonetheless, I will continue to talk about this because I think this is an, an interesting and important conversation to have. When I last left off, I was talking a little bit about, again, the process and the procedure with which these charges are brought. One of the conversations I was having yesterday as well with friends of mine who work as county attorneys or

prosecutors is sort of what the process is for bringing these kind of charges. And ultimately, what I want to make very clear is just because there is an affirmative defense available to the crime or to the charge does not mean that that individual is not charged with it in the first place. So to say that another way, one example of an affirmative defense that we hear often is self-defense. And I think Senator Blood spoke to that yesterday. Self-defense is an affirmative defense wherein if you are charged with an assault or with assaulting somebody else, and they meet the elements of proving that you did, in fact, assault that person, the defendant can then say, OK, even if I assaulted that person, here's my affirmative defense of why I did it. I was acting in self-defense. And the burden is on the defendant to prove by a preponderance of the evidence that they acted in self-defense. And they have certain elements they have to prove and all that. And if they show in front of a jury that they did act in self-defense, the burden then shifts back on the state to say that, that is not true. They did not act in self-defense. They have to prove it was not self-defense beyond a reasonable doubt. So all of that is to say, you still have to go through the process. And when a case comes up before a county attorney or when a case comes up with regards to an assault, for example, the prosecutor does not just look at the facts of that case and say, oh, you know what? Based on, you know, x, y, and z, I think it's possible that they could raise the affirmative defense of self-defense, so I'm not going to charge it. What normally happens is if there's probable cause to charge them with the underlying charge in the first place, they're going to do so. And then they're going to permit the defendant the possibility of at trial alleging or asserting that affirmative defense, and then have to prove those elements in front of the jury. So the reason I say all that is I think it's to push back on the idea that there's an immunity that exists within schools. Again, going back to the presentation that had been given, I think, before the Nebraska Board of Education, there was a slide that was presented that had, I think, a school on one side, a fence and then a street or a yard or whatever on the other side. And I think it essentially said, if you're on the school side of the fence, you're immune. And if you're on the other side of the fence, you're not immune. You can be charged. And that's simply not true. I think that's an unnuanced way of looking at this. There is no immunity that exists for the distribution of obscene materials in school. Just because you are a teacher or librarian in a school, or a librarian in a city library, you do not have an immunity or a complete ban and bar on being charged. You can still be charged with that offense, with that crime. And if you are charged with it, you go through the exact

same process. And so I just want to be very clear, because I think that this idea of immunity got some legs and people were talking about it. I wanted to make sure that folks at home and others who are paying attention to this or reading about it in the papers understand there is not immunity for those distributing obscene materials. In addition to that, I had a question from another colleague about the penalties.

**DeKAY:** One minute.

**DUNGAN:** Thank you, Mr. President. The offense that we're talking about here, I believe under Nebraska Revised Statute 28-813 is a Class I misdemeanor. That is the highest level of misdemeanor that we have. That means that if somebody is, in fact, convicted of this underlying offense, they're punishable by up to a year in jail or up to a \$1,000 fine or some combination of those things. So that means that this is the same level of charge that we're talking about here as domestic assault in the third degree or negligent vehicular manslaughter. So we're talking about a very serious offense. And I want to be very clear to center that in the conversations of what these teachers or librarians could be looking at in the event of additional charges being brought. Having that misdemeanor even pending is a huge imposition and can cause problems for somebody during the pendency of that case. So I want to make sure we understand that, and I'll continue to have conversations about some of the more logistical sides of this. Thank you, Mr. President.

**DeKAY:** Thank you, Senator Dungan. Senator Cavanaugh, you are recognized to speak.

**J. CAVANAUGH:** Thank you, Mr. President. Folks are trickling in. It's Legislature after dinner. I appreciate Senator Dungan opening, the opening act for the after dinner show. So where were we, colleagues? I'm in favor of the bracket motion and opposed to the underlying bill. Yeah. I appreciate Senator Dungan explaining, walking through the affirmative defense. I wanted to touch a little bit where I left off just to remind that the bill does ban-- it does affect all libraries, not just libraries in schools. So reiterate that I would point you to the underlying bill, page 2, line 16 strikes public libraries. So-- but we're having a lot of conversation and people conflate things they don't like with obscene. So-- and actually, this is a conversation I had with Senator DeBoer. So I don't want to steal her talking points, which she was going to say. But she mentioned to me that people are using, often using the kind of colloquial use of the word obscene and not the legal word. So the word obscene has a definition in statute,

has-- it's laid out in U.S. Supreme Court cases and state Supreme Court cases. So the Nebraska state Supreme Court case that defines obscenity is State v. Harrold. And State v. Harrold basically adopts the language from Miller v. California, which is the U.S. Supreme Court case. And so what it says is that something has to be, first, a matter is not obscene under Nebraska law unless, taken as a whole, a average person applying contemporary community standards would find that work predominantly appeals to the prurient interests or a shameful or morbid interest in nudity, sex, or excretion. And then it goes on to say, second, even though the matter depicts hardcore sex conduct which appeals to the prurient interest, it is not obscene unless taken as a whole. The work depicts or describes in a patently offensive way sexually specific-- sexual conduct specifically set out in Section 28, 28-807 to 28-829, which is kind of the section we're talking about here. And then it goes on further to say, third, even though that material appears-- appeals to the prurient interest and is patently offensive, it cannot be obscene constitutionally unless the work taken as a whole lacks serious literary, artistic, political or scientific value. So to meet the definition of obscenity, it has to meet all of those things. So when we're talking about obscenity in schools, obscenity is not allowed and is not protected. But what we're talking about here, what everyone who, who has gotten up and talked on the microphone in support of this bill has brought up are works of literature, books, both fiction and nonfiction, that they find objectionable, in part or in whole, for maybe one section of the book which describes something or the content of the book, meaning that the book covers the, you know, queer experience or something along the lines that somebody that is advocating for this bill thinks is not appropriate. Right? So-- but those are things that people can have an opinion about. You can say, I don't like those books. I don't want my kids to read those books. You can say whatever you want about those. It does not make them obscene. And saying that, saying books I don't like in school does not mean obscenity is in school. It means books you don't like are in there. Right? And certainly parents have a right to gatekeep what their kids read. I do that. I've got-- we haven't talked about this; everybody else talked about this-- I've got 4 kids ages 10, 8, 6 and 4.

**DeKAY:** One minute.

**J. CAVANAUGH:** Thank you, Mr. President. My 4-year-old will be 5 next week. But-- and we are at an age they love reading, and I love encouraging their reading. And we've had conversations about what books we think are appropriate when they've picked out a book or

looked at a book that they thought they wanted to read. And we have had that conversation. But that's-- that is the rule. It's not those books were not obscene that we talked about. They were just books that maybe they weren't ready for yet and they would be in a few years. But that's a different conversation. But what this bill does is attempts to put into statute or take out of statute protections for librarians for books that people find distasteful but are not obscene. That's what we're talking about here. Or teachers. And that's the concern. And I'll push my light because I'm going to run out of time to finish my thought. But--

**DeKAY:** That is your time.

**J. CAVANAUGH:** That's my time. Thank you, Mr. President.

**DeKAY:** Thank you, Senator Cavanaugh. Senator DeBoer, you're recognized to speak.

**DeBOER:** Thank you, Mr. President. Senator John Cavanaugh did indeed take away my point, which I was going to make, which is that there is a difference between the kind of obscenity we're talking about in this bill. This bill refers to legal obscenity. And that doesn't mean that the other things are not colloquially obscene or we cannot find them colloquially obscene. But that is not the same as legal obscenity. This bill deals with legal obscenity. The things which I think folks are saying they do not want to have in the schools I don't-- I-- that is not legally obscene things. Legally obs-- that's a very specific term of art. You heard Senator John Cavanaugh talk through what that is. If what you want to do is have things which are colloquially or obscenely offensive or something like that taken out of the schools, that's just-- it's just not this bill is the thing. That, that, that, that just the, the bill here isn't about those items. So if there are items that are in the school, and we did hear those things in the hearing and other places, that's, that's just not what this bill is about. And I think the remedy for those things which you find offensive for children to see is, is not this. And it's not even like I'm trying to say, oh, I don't know. It's just this just isn't it. This just doesn't deal with those, those books. If it did, if they were legally obscene, then they couldn't be published. They couldn't be given to children in other contexts outside of school either. And, and clearly that's not the case what is happening with these books. And I don't think that's precisely what the folks want. I think what they want is books that they find to be, we'll say it's obscenely offensive, to be taken out of classrooms, taken out of libraries. But



if, if that's what you want, then the remedy would be, I guess, locally to talk to the librarians. Ask them to remove the books. Speak to them. Ask them about the books maybe. Ask them why they have the books. I suspect if that folks object to a book strenuously enough, most folks will consider the matter. So, so that's kind of-- I just-- this bill just isn't relevant to the concern which I hear people making. And that there are local options that would allow the thing that you, you want to have happen, which is some of these books to not be in, in the schools, that we already have mechanisms for, some of which are having trained librarians who have read the books in their entirety, who understand sort of the larger literary milieu, who are trained to understand child development, I guess, and all sorts of other things that I don't--

**DeKAY:** One minute.

**DeBOER:** --even know that they go through to try to understand. I, look, I find some of the books that we're talking about obscenely offensive. I do. I don't think they're legally obscene. So I don't think this bill is relevant to them. But my finding them offensive is not, not really what's in the conversation here. And I think that's the problem for me with this bill is that it isn't relevant to the conversation we're having about these books, and that there are local remedies that we have trained professionals to try to handle. Thank you, Mr. President.

**DeKAY:** Thank you, Senator DeBoer. Senator Hunt, you're recognized to speak.

**HUNT:** Thank you, Mr. President. Good evening, colleagues. Good evening, Nebraskans. You know, I appreciate the attorneys in the-- in the body speaking up about what the, the language in this bill means legally. Because, of course, at the end of the day, we have philosophical beliefs. You know, I'm philosophically opposed to this bill. It's, it's a vibes-based opposition. It's like it's just not what I believe in type of stuff. It's ideological. But when we're making law and we're talking about the language that we're putting into our statutes and the legal meanings of those things, you know, we have a civil rights attorney, a leading civil rights attorney in Nebraska who's in the Legislature, who we have the privilege of working with. We have several working attorneys who are explaining to us here that there's a difference between legal obscenity and just something you don't like. And I think all of us should be a little bit wary looking at the direction lawmaking is going in many states about

what kind of net we're using to drag through the pool of what is obscene and what's not. More and more things are getting caught in there. And that's the basis of my objection is, you know, there are things that are obscene legally. But it's clear to me that some of you find 2 men getting married obscene. You find teenagers having sex obscene. You find comprehensive sex education obscene. You find, you know, like, I think that there are some of you who are offended by things that other people are not so sensitive to. And legally, it doesn't rise to the level of needing to be prohibited by statute. Because then where does the snowball stop? What? You know, more and more and more things become thought crimes, honestly, in the eyes of the Nebraska Legislature. And that to me is a problem. I, I also want to say, you know, I didn't stand up and speak this morning. I did expect to, but I only had salt. I only had salty feelings. And I knew that there was nothing I could say that would be productive to that discussion. And I also want to say pointedly to leaders in this body that this conversation isn't over. You know, Senator Albrecht vehemently stood up and said, you know, I did not ask Senator Halloran to say all that. I did not ask him to read that, that passage. I don't think anybody thinks that anyone asked him to do that. I think he did that because he couldn't wait to do it. He was waiting in the queue desperately for over an hour to do that. I think it excited him. And the problem isn't that graphic language exists in books. The problem isn't that people experienced sexual assault and describe it. The problem is standing on a platform as a state senator and saying the things that he said to one of his colleagues, excitedly. I mean, you could tell, you could tell. And what upset me this morning about people reacting, you know, people sharing during our-- the motion to reorder the agenda or to overrule the agenda and then the points of privilege that kind of upset me, too, some of the things that were said. Because for one thing, the person who was most affected was not centered in that conversation. Senator Machaela Cavanaugh's preferences or wishes were not what were centered in that conversation. And that also goes back to a lot of patterns of problems that we--

**DeKAY:** One minute.

**HUNT:** --see in this body-- Thank you, Mr. President-- of how victims are treated, of how survivors are treated, how people who experience harassment in this building, staffers, senators, how they don't really have a lot of support and safety when it comes to reporting these things. The processes that the Executive Board put in place a few years ago, I mean, we had Kintner, we had Groene, we have Halloran,

we, we have-- we have pests in this body who they say things like this and no one is surprised. We work with them anyway. It's just like any workplace. But we know that we don't have the same kinds of safety and processes in place that other workplaces have, and that makes staff feel unsafe. And that's a bigger problem that we have to address as a Legislature. It doesn't mean we're censuring anybody. It doesn't mean we're censoring anybody. It means that we need to make sure this is a safe workplace.

**DeKAY:** That is your time.

**HUNT:** Thank you, Mr. President.

**DeKAY:** Thank you, Senator Hunt. Senator Albrecht, you're recognized to speak.

**ALBRECHT:** Thank you, Mr. President. I'd like to go back to like, the beginning-- and I'm sure we have many new viewers here this evening-- to know and understand what our statement of intent for this bill is. The following constitutes the reason for this bill and the purposes which are sought to be accomplished thereby. Nebraska law prohibits the distribution of obscenity to minors. This bill would close a loophole in Nebraska law that currently allows adults to present and distribute obscenity in grade schools, junior highs and high schools. Under current law, Section 28-808 makes it unlawful knowingly to sell, deliver, distribute, display for sale or provide to a minor any obscene materials harmful to minors, as defined in the Nebraska State Statute 28-807. Section 28-815 currently grants defenses to state statute 28-808 for all educational institutions. You can see the Nebraska State statute 28-810(4). This bill would limit the exception in Section 28-815 to postsecondary schools. This bill operates on the principle that no one should be allowed to provide or distribute obscenity to minors, and certainly not in a trusted school environment in the K-12 school children. The legal background for this bill providing sexually explicit and obscene materials to minors currently violates the law. Nebraska, again, state statute 28-808 provides (1) that it shall be unlawful for a person knowingly to sell, deliver, distribute for sale, provide to a minor or knowingly possess with the intent to sell, deliver, distribute, display for sale or provide to a minor in (a) Any picture, photograph, drawing, sculpture, motion picture film, or a similar visualization or image of a person or a portion of the human body, or any replica, article or device having the appearance of either a male or female genitals, which predominantly and pruriently, shamefully or morbidly depicts nudity,

sexual conduct, sexual excitement, abuse which can be taken as a whole, is harmful to minors, or (b) Any book, pamphlet, magazine, printed matter, however produced, or a sound recording which contains any matter enumerated in subdivisions (1)(a) of this section or pics [SIC] the detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct, the other abuse predominantly prudent [SIC], shameful, or morbid in nature which, taken as a whole, is harmful to minors. Any person who violates this section shall be guilty of a Class I misdemeanor. The Nebraska State Statute 28-807 (6) provides: Harmful to minors shall mean that the quality, that quality of any description or representation in whatever form of nudity, sexual conduct, sexual excitement, abuse when it is predominantly appeals to the prudent [SIC], shameful and morbid interest of minors, is patent-- patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors, and (c) is lacking in serious literary, artistic, political or scientific values for minors. Essentially, this is the Miller standard.

**DeKAY:** One minute.

**ALBRECHT:** Thank you, Mr. President. And I'll continue to go on with the state statutes. I'm not-- this is already in law. This is already part of what Nebraskans in every other environment has to adhere to. But we're here today because this is going to be, when it's passed, the obscenity law will take place in K-12 schools and their libraries within the schools. I know we're hearing a lot of, of pushback from the attorneys that are on the floor. But again, we are here to protect the minors from any of these things that we're reading about in the state statute. And it clearly would define that some of these materials that these parents brought to the committee during their hearing absolutely suggest that they should not be in our schools. Thank you, Mr. President.

**DeKAY:** Thank you, Senator Albrecht. Senator Conrad, you're recognized to speak.

**CONRAD:** Thank you, Mr. President. Good evening, colleagues. I think we did a pretty good job of laying out and reaffirming some of the legal and, and policy issues contained in this legislation. And I want to broaden the lens perhaps even more widely this evening. So we work so hard to make sure that we are telling the good stories about the good life, the incredible quality of life that we enjoy in Nebraska with beautiful spaces, a low cost of living, great public schools, a clean

environment, opportunity. The list goes on and on. I know that each of us could pen and sing a love letter to our beloved Nebraska that extends far beyond our 3 times at the mic on, on any given, given motion or measure. We've worked hard with the Governor to figure out how to get the most bang for our buck in telling those stories, those good stories about Nebraska from a tourism perspective, from a marketing perspective, because we want to warmly invite more people to see this incredible state, to put it on a showcase, to, of course, reap the economic benefit that comes with tourism, but to proudly tell those stories and retain and recruit more talented people to Nebraska. And I want you to think really carefully about how what's happened on the floor of this Legislature over the last 24 hours has recentered Nebraska in national news and not telling those positive stories, not showcasing our beautiful spaces, not talking about the strong quality of life that we enjoy here and have to offer to others. When my constituents in north Lincoln, many of them college students on East Campus, on City Campus, and Wesleyan, at Southeast Community College, when they see these headlines on their social media about what's happening in their state, and there seems to be a consistent focus on banning books, on targeting teachers, on targeting librarians, on using the power and prestige of our office and our platforms to wage the most raucous aspects of our culture war in our-- in the brokenness of our politics today, that undercuts our ability to tell the good stories about Nebraska. It undercuts our ability to talk about how there's opportunity for everyone in Nebraska, which helps us all have a better, stronger, brighter future when more Nebraskans have an opportunity to succeed. When we seek to double down on failed strategies like book banning through other means, no matter how thinly veiled, no matter how dressed up, it undercuts our ability to talk about our incredible people--

**DeKAY:** One minute.

**CONRAD:** --our open spaces, and our fantastic way of life here in Nebraska. Thank you, Mr. President. There are remedies available on the local level to challenge content and material that people find offensive or not right for them and their family. Number one, you can opt your kid out of something that you find objectionable. Number two, these books are not mandatory reading. I don't know what happens in every school across the country, but they're not in Nebraska curriculum, as I understand it. And if they are, you can opt out. Additionally, if you see something that's suspect, you can work through a challenge process on the local level. But members who are

concerned about that and who brought forward this bill have tried those remedies, and they haven't been successful because--

**DeKAY:** That's your time.

**CONRAD:** --books they find objectionable is not legally obscene. Thank you, Mr. President.

**DeKAY:** Thank you, Senator Conrad. Senator Lowe, you're recognized to speak.

**LOWE:** Thank you, Mr. President. Where's the Speaker? I spoke with her. I guess I received an email today from one of the Kearney Public School Board members, and he said that the book that-- where the transcript was written out of last night is not in the Kearney Public Schools library. So I'm, I'm proud to say that. But I think I read a book on the [INAUDIBLE] on the microphone earlier today about the book Jaws and, and how at that time they read that scene of, of a couple getting together on the beach and really used very vague language. And they decided to remove that book from our school libraries because they knew that they-- that teachers could describe what was happening better than have it written out in a book for children to read. If we want to have things like that in our libraries, that should be in control of the-- of the teachers and that where we have more control of, of what is read then and not just up to the children because the librarians saw this book was always being checked out as soon as it came in because word spread of what was in there, this scene that I was able to read on the microphone and not embarrass too many people on the floor. But our morals were much better then and our students were much better then. It was said earlier this evening that we're having problems in our schools. Could be because our morals have, have gone away from us. We no longer have 2-parent families. That seems to be important. It was important back when I was in school and my parents were raising us, that you had a 2-parent family, that you respected other people. That when you had a problem, you went up and asked somebody that, hey, I've got a problem. Let's work this out. But now we come to an age where, where we work everything out on a telephone and we never look anybody in the eye. That's hard to do. It's hard to hear somebody. I've been getting emails all day of how we need to censure or remove Senator Halloran because of what they've read in the newspaper and it's national news. I was lucky I recorded what Senator Halloran said last night so I've gone over it 5 times today on what he said and how he said it. And the intent behind his voice, I don't believe was, was bad toward Senators Cavanaugh's or

Senator Dungan. He wanted to gain attention to what this bill was and the book that was in school libraries. I believe that's what his intent was. Now, I may be wrong. But in the tone of his voice and the way he said it, I've gone over it 5 times today. I don't believe anybody else on the floor has done that. They may have read the transcripts, but we all know--

**DeKAY:** One minute.

**LOWE:** Thank you, Mr. President. --we all know that during COVID when we asked the testifiers to stay away and send a letter, we could not read into that letter the inflection of their voice or how things were said. We only read what was written on the paper. But when you hear the inflection in the voice, that's where it counts. So I'm sorry what Senator Halloran said to Senators Cavanaugh and Dungan. But I believe that the book that he read from should not be in our school libraries or anything like that. Thank you, Mr. President.

**DeKAY:** Thank you, Senator Lowe. Senator Day, you're recognized to speak.

**DAY:** Thank you, Mr. President, and good evening, colleagues. I'm going to go back to where I left off earlier. Again, we've had several people that have gotten up on the mic and talked about the issues with this bill from a constitutional and a legal perspective. I am talking about the bill from a parenting perspective because I believe we are having a larger conversation about protecting children from abuse, protecting children from obscenity, from awful life experiences. And what I wanted to talk about is we don't protect kids from abusers and those types of life experiences by making sure that they grow up in a 2-parent family. As a one-time single mother who has raised a wonderful 15-year-old young man at this point, who is known to be respectful and courteous of his friends, the kids that he goes to school with, his teammates, I find it really hard to listen to when we hear senators talking about morals and 2-parent families and anyways. The things that we know actually protect children from these experiences is not putting them in a bubble and preventing them from seeing real-life experiences, from reading about them, from hearing about them. Sexual abuse exists. Sexual assault exists. We protect our children by providing them things like comprehensive sex education, which this bill could possibly limit. Senator Albrecht even alluded to this a little bit yesterday on the mic, because she talked about some of the things that were included in curriculum, not just talking about library books. We're talking about potential issues with curriculum,

books that are included, teaching materials that are included in schools right now, particularly, I would assume, within sex education or health education. Comprehensive sex education is proven to reduce teen pregnancies, to reduce early age inappropriate sexual activity. It improves health outcomes for young people. If we are talking about protecting kids, comprehensive sex education is one of the things that we should be talking about, not banning the very information that is going to provide them with the tools to use that protection for themselves. The other thing that we talked about and I've said this to a couple of colleagues today, I think that what we saw on the floor last night was the perfect example of why reading these types of stories are really important. I think what we saw on the floor last night from Senator Halloran and again this morning from Senator Halloran was a very deep lack of empathy for the situation that was described in that passage.

**DeKAY:** One minute.

**DAY:** And for the people-- Thank you, Mr. President-- the people listening at home and on this floor who have experienced something similar. As I mentioned on my last time on the mic, we know that it is a well-researched fact that reading, reading fiction in particular with these types of stories, cultivates and builds empathy in human beings. These types of stories are instrumental to making sure that what happened on the floor last night doesn't happen again in the future. That reading stories, graphic stories about rape and inserting your colleague's name into the story is understood to be something that no adult should do to anyone else. That's the importance of reading--

**DeKAY:** That is your time.

**DAY:** --books. Thank you, Mr. President.

**DeKAY:** Thank you, Senator Day. Senator Dungan, you are recognized to speak. This is your third and final time.

**DUNGAN:** Thank you, Mr. President. And good evening again, colleagues. I rise again in favor of the bracket motion and opposed to LB441. I appreciate the opportunity to take a step back and talk about this in the broader lens of what we're discussing here. I know that I'm accused by my friends sometimes of getting too into the weeds and talking a little bit too much about the law, in specifics, which I do think is important for what we do here. But I also think it's



important to talk about what this means and why it matters. Books matter and words matter. That sounds really silly to say because I know we all understand that books are important. But books have always been an opportunity for connection. And what I mean by that is there are individuals, there's kids out there who, when they're young, don't know how they feel. They don't know how they think. They don't know who they are. And it's only through oftentimes reading at a young age that you start to really, truly understand who you are as a person and what you think. I know that when I was younger, I had an opportunity to read a number of books that changed how I felt from age 5 to 15, all the way through high school, I was constantly changing the way that I felt about things and my perspective on issues. But books have an opportunity to tell us who we are and to help us understand our background. Words also have always had the opportunity to bring people together and to connect us. I know at the advent of the internet, it seemed like a fad for a number of people, but the internet has been a place where for decades folks of all different walks of life who find themselves marginalized have been able to find community, able to connect with people who think the same way they do, feel the same way they do, talk the same way they do, love the same way they do, especially people who don't have that community in their hometowns. They're able to find that through things like the internet. But in order for them to find that connection, and in order for them to find how they actually feel and what they believe, they have to learn that about themselves. If we systemically start to deprive kids of the opportunity to be challenged, if we systemically start to tell kids that they can't read things that might make us uncomfortable, we're not letting kids become themselves and we're not letting them challenge themselves. Laws like this have been proposed for a long time. Laws like this have been proposed all across the country. And in a number of states where this has been proposed, what we've seen is a real, true chilling effect on books being available to other people. In another state where something like this was proposed, even the legislation being offered, not even debated, led towards, I think, a number of libraries across the state putting certain books on a list and calling them "behind the shelf books." And these were not books that always had to do with sex. These were books that had to do with a number of important things, not least among them being race, poverty, sexual orientation, books that are integral for kids to find out who they are and how they feel. And the second that we start saying that we don't want kids to discover who they are and how they feel because certain components of those books make us uncomfortable, we are doing a disservice to the very people that we're trying to protect. Of

course, we don't want kids to be exposed to obscenity. Of course, we don't want kids to see things that are beyond the pale, but we need to trust that the local librarians and the teachers and the people in these schools understand what is and what isn't appropriate. The kind of passage that we heard read yesterday on the mic is not available in some elementary school to a bunch of second graders. It's not being taught--

**DeKAY:** One minute.

**DUNGAN:** Thank you, Mr. President. --a third grade class. It's available to teenagers, most likely I'd imagine, or to city library, who are of an age to understand that it's not something to emulate, but rather something to help them empathize and understand the plight of others. And it also has the chance to make them feel less alone. So, colleagues, we need to make sure that we are doing everything we can to encourage our kids to learn, to encourage our teachers to feel supported, and to make sure that we are telling every single student here in Nebraska, we respect you, we trust you, and you have every right to figure out who you are as a person. So, colleagues, I would encourage your green vote on the bracket motion. I would encourage your red vote on LB441. Thank you, Mr. President.

**DeKAY:** Thank you, Senator Dungan. Senator Moser, you're recognized to speak.

**MOSER:** Thank you, Mr. President. Good evening, colleagues and Nebraskans that are watching from home or at work. LB441 doesn't define pornographic obscene. It removes a affirmative defense if, if a teacher or a librarian were accused of allowing someone to view pornography. Currently, they could say, well, I'm, I'm immune from prosecution because I have this affirmative defense that I can say it's educational. And I haven't heard any examples of this affirmative defense ever being used. It's being settled by school boards, principals, teacher organizations. They're negotiating these things and, and addressing them on a case-by-case basis. One of my colleagues, while I was talking to him underneath the balcony before, said that repealing this affirmative defense might have an effect on how pornography or obscenity is defined, because they wouldn't have that backstop. If it-- if it caused people to think more about what they have in the library and what they have kids read, I'm OK with that. I think that's important. I, I think we should do our best to put forth an environment that prepares kids to be in the real world without jading them. And I just-- I think LB441 is a minor step in

that direction. And prosecutors still have the discretion to charge somebody if they think that they're guilty. I don't think that's going to happen. And even if this bill doesn't pass, I don't think it's going to change real conservative groups and keep them from going into the schools and trying to talk about what books they don't like. I don't think this is going to embolden them. I think they believe what they believe. And this is just a technicality after the fact. And, and like I said, I haven't heard of anybody being prosecuted and then using this affirmative defense. I think if it shifts the landscape a little bit to where we have a little bit more discretion in what we pick to put into libraries and what we ask our kids to read, based on what I heard from the testimony in the hearing, I think that's a good thing. Thank you, Mr. President.

**DeKAY:** Thank you, Senator Moser. Senator Walz, you're recognized to speak.

**WALZ:** Thank you, Mr. President. And I will try to speak very clearly so you can understand exactly what I'm saying this time, Mr. President. So I just wanted to thank everybody for the discussion that we're having tonight. You know, I really think, again, that there's a better way for us to address this without having to criminalize our educators and our librarians. And I'd like to go back to the discussion on maybe some other avenues that are available to address the age appropriate reading content through policies and procedures. I had some really great feedback from colleagues and schools and parents and librarians on policies and procedures that they currently have in schools and how they handle that, that content. But I want to-- I want to also focus my attention on how important family engagement is in this process. Is it more important for us to have a parent/school relationship, or is it more important for us to have a law enforcement/school relationship? And I would say hands down that I think it's way more important that we work on the parent/school relationship. Last night I had a parent email me about procedures that are in place in their school. And she-- her kids apparently go to Shelby-Rising City. And she said that all of our policies and procedures are online. She is happy to share those with us. They have been approved by their school board. So I just wanted to outline a few of those policies that they have. The first one is basically, she says, they outline both instructional and library material selection policies and challenge procedures. She said they take the selection of those materials very seriously, and they ask a lot of good questions during this meeting. Then any taxpayer, any taxpayer or caregiver in their district can examine any instructional materials or library

materials at any time. And she said, I believe that this is a common practice in Nebraska schools across the board. In her experience as a parent, she's only ever had to check the website to find out what is being used in the school. And then she says that if there is any objection to instructional material or materials, the policy states that they have the right to look into that, and the process is detailed out in those policies and procedures, procedures on how they do that. So I just wanted to let you know that, you know, I believe that there are already policies and procedures in place. The other thing that I wanted to point out, again, is the piece of legislation that Senator Sanders had in LB71, and it's been prioritized by Senator Meyer. This is a piece of legislation that I believe was really well thought out and discussed by a whole group of educational stakeholders. And the summary of this is that LB71 would grant general access by parents and guardians to teaching materials, practices, activities, examinations, and so forth. The bill also directs each school district to adopt a policy that complies with that directive.

**DeKAY:** One minute.

**WALZ:** Thank you, Mr. President. Section 1 of that bill states the intent of the bill is to strengthen the level of access and involvement by parents and guardians in their child's experiences in the state public education system. Section 2 of that bill states that each school district shall adopt a policy stating how the district will involve parents and guardians regarding access to testing information and curriculum. The school district will also develop a policy regarding excusing children from specific instruction or activities, upon request by the parent or guardian. Section 3 states that the school district shall develop policy that must include, but is not limited to, issues of participation, access to materials, activities, testing, training, and so forth. In Section 4--

**DeKAY:** That is your time.

**WALZ:** Thank you, Mr. President.

**DeKAY:** Thank you, Senator Walz. Senator John Cavanaugh, you are recognized to speak, and this is your third and final time.

**J. CAVANAUGH:** Thank you, Mr. President. That's what you think. So, well, again, I rise in support of the bracket motion and opposed to LB441. And obviously, I have lots of thoughts on this. I did want to address Senator Moser's comments, and I was sitting here thinking

after I heard him talk, he and I had the conversation on the side. I know he didn't say it was me, but it was me, that we had this conversation on the side. And I would say, I honestly would give my friend Senator Moser credit. I think he understands this bill as well or better than anyone, because he said, what will happen with this bill with the repeal of the affirmative defense is that people will think more before they put books in the library. Senator Moser, to put it another way, it will have a chilling effect. So you and I had-- Senator Moser and I had this conversation, and I kind of walked him through what the effect of this bill would be. And he, of course, says that this affirmative defense is not currently used which, of course, tells you that there's no obscenity in schools because you would only get to this affirmative defense if there was obscenity in schools. And then you got the affirmative defense. So again, that's further evidence that there's not obscenity in schools. Again, there is content that some people here don't like, but there's not obscenity in schools. But so here's what happens. The Legislature passes this bill. The folks who think a lot of these books are obscene, though they are wrong, these books they don't like, they then feel empowered and emboldened, and that they have the stamp or imprimatur of the Legislature and presumably the Governor, to go to these schools anew and push anew to eliminate these books that they don't like. And when they come to-- we'll just use Columbus as an example-- they come to the Columbus Public Library because as a close reading of the bill will tell you, this applies to public libraries as well as libraries in schools. But they come to the Columbus Public Library and they say, we don't like this list of books. And the Columbus Public Library, being the risk averse entity that I'm sure they are, will say, we are afraid of having to fight, pay the cost to litigate all of the challenges to all these books. And so perhaps this organization, who does not like a large selection of books, will say, fine. Just take out *Jenny Has Two Daddies*, and *I Would Rather Be A Princess Than A Prince*, which I'm just hypothetically making up. But I've seen books that are similar that are age appropriate cartoon books that deal with, you know, nontraditional families, as you might call them, or people who are-- younger people who are queer or LGBTQ or something. And they would-- these folks will say, we think these books are obscene because we don't like them. And so the Columbus Library is going to rather than engage in a fight, they're in their risk averse or second look at these books, or they're-- a result of the chilling effect, is going to take out these books, which are, again, age appropriate descriptions of lives, people's life experience that the advocates for this bill do not agree with and don't want to see

represented. And so it is not, Senator Moser, that more people are going to be charged under this. And it is not that obscenity is currently in schools. It is that passing this bill will do exactly what Senator Moser--

**DeKAY:** One minute.

**J. CAVANAUGH:** --described. It will have a chilling effect on public schools, public libraries, libraries in schools for books that people find disfavorable and the having a fresh stamp of approval from the the government of the state, saying, we are not standing with teachers and librarians and protecting their discretion of books that represent other perspectives that they will-- people will feel empowered to challenge them. And the deluge of it itself will cause problems for our schools and our libraries, and that will result in books being taken off the shelves. So there is a very real possibility that if we pass this that books that people find disfavorable that are not obscene are removed from the shelves. So that is thank you, Senator Moser, for the conversation. Thank you for pointing out the, the tremendous flaws with this bill and the concept of banning books.

**DeKAY:** That is your time.

**J. CAVANAUGH:** Thank you, Mr. President.

**DeKAY:** Thank you, Senator Cavanaugh. Senator Machaela Cavanaugh, you are recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. Well, Senator John Cavanaugh, you probably will speak some more because this is my first time, and I'll probably just give you the rest of my time. I asked how much time was left on this. And if we go to cloture tonight, it'll be around 10:20, 10:30. And I really hope we go to cloture tonight. And I don't feel like I've asked too much of the body today, but I'm going to ask for this. I want to be done with this bill today. I want to be done with this bill today. And if it moves forward, fine. But at least it won't be on the agenda tomorrow. And I think you owe me that, because I've had to sit here and listen to people defend indefensible behavior and normalize it and make it my fault when all I was doing yesterday was having a conversation with Senator Albrecht about her bill and how I, as a parent, view it with children that are school-aged. I was innocently debating with my colleague about her bill that is her priority that she cares about. And I want this over tonight. I don't deserve anything less. I deserve a lot more, but I don't deserve

anything less. I yield the remainder of my time to Senator John Cavanaugh.

**DeKAY:** 3 minutes, 29 seconds.

**J. CAVANAUGH:** Thank you, Mr. President. See, I'm prophetic. So why I wanted to go back to, well, not something. It's a new topic, actually. So we're talking about a lot of books. And actually Senator Lowe talked about Jaws being previously banned, and it made me think of other books that have been banned. And I know you'll all be surprised to know this, but I have a water bottle that I drink out of, and I don't bring it to the floor, but it has a sticker that says read banned books. But Harry Potter was a book that a lot of folks didn't like. It was attempted to be banned because people, you know, think witchcraft, representation of witchcraft are, are bad or whatever, or something, something to do with a religious objection to witchcraft. And then, of course, you know, there's a lot of other things, but. So my daughter, who's 10, likes to read and I like to read with her. And so I don't remember what age she was, but she was, you know, a couple years younger. And we started reading through the Harry Potter series. And we got to the Prisoner of Azkaban, and we were reading it, and we're kind of-- I like to engage in literary criticism. So we sit down and we're having dinner, and I start talking through Prisoner of Azkaban. And I will say, spoiler alert if you have not seen or read the Prisoner of Azkaban, I'm probably going to reveal something. So I would recommend I'm going to give everybody like a 5 count to turn off, mute and then like I'll wave and you turn the TV back on. But otherwise, if you're in the room, you're gonna have to leave. So Prisoner of Azkaban has a character called Lupin in it. Professor Lupin is the Defence Against the Dark Arts professor. And he has-- he keeps disappearing during school, and they have this thing where you see your greatest fear. And his greatest fear is a glowing white orb. And he disappears, like, once a month sort of thing. And all of these, there's these sort of what you might call foreshadowing or, or hints. And so I'm talking to my daughter, and we're kind of talking through what's happening in the book. And she says-- oh, and I forget one of the other teachers, Professor Snape, has like a dig at Lupin, has him write a report about werewolves. So my daughter, who's probably 8 at the time, we're talking through and just all the different stuff in the book that we've come across. And she says, you know what? I think Professor Lupin is a werewolf. And she kind of-- I said, well, why? And she tells me all the things, you know, the moon--

**DeKAY:** One minute.

**J. CAVANAUGH:** --that things in the moon, the report about the werewolves and werewolves-- turn into werewolves every whatever month and then and all that. And so, so this is the spoiler. Professor Lupin is a werewolf, and you find it out later in the book. But my 8-year-old, while we're reading, picked up on all these clues. And through that, and my just sheer joy of the fact that she had figured that out, we read the whole rest of the series, and we've continued to read a lot since then, because it brings me such joy to talk through the books with her. And that has led for her love of books. And so what I'm saying is-- so I'll wave now-- you can turn it back on. So that-- but that fostering of books has really helped us. It's something we connect over. And that's something that's great for her development. And we-- but that was a stretch book at that point in time. But she was able to understand and pick up the themes in that book and to get something more from it that has brought us further along, as in our relationship and in our journey.

**DeKAY:** That is your time.

**J. CAVANAUGH:** Thank you, Mr. President. Thank you, Senator Cavanaugh.

**DeKAY:** Thank you, Senators Machaela and John Cavanaugh. Senator Hunt, you're recognized to speak.

**HUNT:** Thank you, Mr. President. Can I see? Do you have your "read banned books" sticker? It's not on this one. Is it on a water bottle or a?

**J. CAVANAUGH:** Like a Nalgene.

**HUNT:** A Nalgene, like a water bottle. I, I own a shop in my district, and we sell stationery, and we have 3 or 4 or 5 designs of, like, a read banned book sticker. And we have this whole wall in the shop that's just stickers and patches and things. And I like having that because usually when I-- so the shop is kind of near like a middle school and a high school in my district too. So a lot of kids are walking home and they come through the shop and, you know, a sticker or something small like that, a button that you pin on your jacket, like that's something that a lot of these kids can afford sometimes. And they feel like they can come and get something and express themselves and their views and have something to, to pin to their jacket or put on their water bottle or something. And the read banned books stickers are the most popular item in that category. Absolutely. No question, because these kids are smart enough to know for



themselves what they're prepared to read and what they're not. So that's, you know, a lot of you-- you know what I realized recently? A lot of you don't know-- a lot of you probably think that's all I talk about all the time, but a lot of you don't know that I own a shop, that I've been a business owner in my district for about 20 years. And I've got a boyfriend, and he's come around here a couple times and some of you have met him. He's the new favorite of the group. He's rehabilitating my image with some of you. Some of you are talking to me for the first time because you've seen me with a man. And so now it's OK to approach me and things like that. And one of you came up to me and said, so that Bobby's pretty great. He owns a couple stores, huh? Business owner, like that. And I'm like, my brother in Christ, you know that I'm a business owner. Like, we do the same thing. I also own a couple stores. But yes, I'm glad that you are now paying attention to my existence because you've seen me with a boy. To make a point, to drive, you know, to drive home a point about the patterns of sexism in this body, and sometimes they're funny and innocent, like what I just described. And sometimes they're much more insidious and, and based in violence and something a little bit more aggressive like we experienced last night. I am grateful that in Nebraska, hopefully after tonight, we will not have a book ban in this state. I agree with Senator Machaela Cavanaugh's wish to put the final nail in the coffin of this bill tonight and not let it hold over until tomorrow and just let it be done at this time. I'm prepared to stay here late. I know a lot of people have had to check out and go home, have responsibilities with family. You know, I'm, I'm ready to stay here and just-- and just finish this up. Because we know that this bill does not have 33 votes. So I think we should be ready to finish it tonight and move on to other things. Another thing I wanted to share that I didn't get time to share on the mic earlier, since the point now is to take time until we take the cloture vote and we don't have 33, is the "both sides ism" of what was said this morning frustrated me a lot. Saying things like, you know what happened last night? This is like something that really bothers me politically that a lot of people say because it comes off as like adult and mature but I think it's stupid. Saying something like, we all just really need to listen to each other better and we all need to do better with each other, and all we need to do is listen and break bread and hear where we're coming from and then all these things can be avoided. I think that there comes a time where you hit the ceiling on civility. I really do think that, and many people disagree, and that's OK. But this is really my view that you come to a point where you're, what, 70 years old?

**DeKAY:** One minute.

**HUNT:** Thank you, Mr. President. You've had a life; you've been married; you've had kids; you've raised these kids. Now you're enjoying the fruits of your-- of your life and you've got grandchildren. You've run a business. Maybe you've sold a business and you've become elected to the only deliberative statewide body, and you're a state senator, and you use that platform to say, well, I'm not going to say it. You all heard it. And you know what? Senator Lowe said that he watched that video 5 times. I'll tell you, at 8:42 p.m. last night, I posted it, and now it's been viewed 460,000 times. That video I posted just on my Twitter has been viewed 460,000 times as of right now, and that's just going to go up. I bet it hits a million by tomorrow. So people are able to see for themselves what Senator Halloran said. And from the feedback I'm getting, a lot of those people have come to the conclusion that I have that he should choose to resign.

**DeKAY:** That is your time.

**HUNT:** Thank you, Mr. President.

**DeKAY:** Thank you, Senator Hunt. Senator Bosn, you're recognized to speak.

**BOSN:** Thank you, Mr. President. I rise just to provide some background and some additional information. Senator Dungan spoke earlier about cases where there's an affirmative defense and that relates to the case, excuse me, to the statutes that are being referenced in this bill. And he asked me if I would speak on it, and I wasn't prepared to do it at the time. But he talked about how prosecutors will file charges where they believe there's an affirmative defense and let that play out in court. The defendant can assert their affirmative defense, but the prosecutors are filing that. And I, I disagreed with it, but I've also done some checking with other individuals. When you get a police report or when a ticket comes in and you review it for purposes of charging, in these cases, if it was a book and there's an affirmative defense, you're actually precluded from filing those charges. You can't just charge someone when you know there's a defense that would make it not guilty if, if proven. Now there's cases where there's an affirmative defense and you disagree with it or you don't think they can prove that, and so then you would in that case, be within your right to proceed. But it's not necessarily in every case where there's a believed or perceived or known affirmative defense

that the prosecutor would charge those cases. So he's not here now and I would have asked him some questions before I got on the mic, but I didn't have the chance. So as far as where I stand on this bill, I had a chance-- I've had several conversations with Senator Albrecht. And I think that her intentions here with this, I think refusing to recognize what the concerns are only exacerbates the problem. So to believe that books that are appropriate for 16- and 18-year-olds are the same as what's appropriate for a 6- and 7-year-old is, is to ignore the reality that there are parents and grandparents and constituents who have these concerns. And if you disagree with this solution, OK. But let's agree that there, there is a difference between age appropriate in those-- in those situations. So I look back at where the cases are on this. And the initial case that was filed is Board of Education v. Pico, which is a very old case. It's older than I am. And it talks a little bit about banning books from library shelves. The school removed several books from the library that it deemed inappropriate. It was a 5-4 decision in the Supreme Court. It goes through some of that, and then we have additional case law since then that's obviously-- expands on the issue. And you can look at some of those cases. And the reality is, if the-- if the book has information in it that's inappropriate for an age or a certain age group, saying that that's crazy or that's, you know, censoring good books ignores the reality of the good intentions of those who are saying, well, some of these really might be good books, but can we agree that there's also areas where we can have books that are in middle schools versus in high schools versus in elementary schools? And so I'm open to having those conversations. I think Senator Albrecht, at least to me, has expressed a willingness to have those conversations. But I, that's really my point in rising today is to just point out that there are valid concerns on both sides of this. I strongly oppose having-- vill-- vilifying librarians or schools or teachers and saying that, you know, they're doing things that are, you know, intending to hurt children. But I think we can also say that there are differences in what's appropriate based on ages.

**DeKAY:** One minute.

**BOSN:** Thank you, Mr. President.

**DeKAY:** Thank you, Senator Bosn. Senator DeBoer, you are recognized to speak.

**DeBOER:** Thank you, Mr. President. I actually agree with Senator Bosn on a great many of her points. I think there are differences in what's

appropriate for a high school kid, a college kid, a kindergartner, and a junior high kid. Those are all different things. I think she's exactly right to point that out. My concern-- well, to take up her point about the affirmative defense, I think she said that you-- that as a prosecutor, if there is a colorable argument that there's an affirmative defense, maybe it has to be more than that. But if there's a pretty clear affirmative defense, you can't even charge it. So I think that's kind of what we have. I think the reason for the affirmative offense or the, the result of removing the affirmative defense is that then you have folks deciding whether or not to put a book in a library, and the result of that decision could mean that they face criminal charges or not. And I imagine if any one of us in here were deciding whether or not to put a book in a library, knowing that the consequence might be we would go to jail, well, not jail but maybe, we would-- we would have a-- we would have a crime on our record there-- that's what it would be-- then I think we would-- we would be very, very, very measured. But maybe not everyone would. Maybe not everyone would. But I, I think the point of the affirmative defense is to say we don't really want educators making decisions under the threat of criminal prosecution. So Senator Lowe read from Jaws and said that was banned. I don't want to ban Jaws again. I don't know what age Jaws was not allowed in your library. I don't think any of us wants to go back to an era where we have to show parents in a sitcom in twin beds. I don't think we want to go back to a place, I really don't. I don't think Senator Albrecht is, is arguing to go back to a place where we can't show a pregnant woman on television. I don't. I truly do not believe she wants that. And I don't probably think anybody else in here wants that either. But my concern with putting a librarian or a teacher in a place where they have to decide about a book, about whether or not they're going to be charged criminally, I think what we're going to do is we're going to swing way far over in the other direction. The mere threat of criminal liability is going to make them really, really, really gun shy. And I think that in some areas that will mean that we overban the books. Is there a problem with that? I do think there is. I think there's a problem with overbanning books, because I think that, as Senator Day pointed out--

**DeKAY:** One minute.

**DeBOER:** --if we don't have some of these discussions, if we don't have the language to talk about things with each other, if we-- if we don't have children who have the language to talk about these things, who don't understand their experience, I think that perpetuates and increases the experience. I think in other ways it won't do. It won't

ban the books that you want banned. So I don't think this does what you want it to do in some cases. And I think it overcorrects in other cases because I just don't think this is the, the relevant mechanism for doing what you want to do. I think we want to be able to have children have some discussion of things with--

**DeKAY:** That's your time.

**DeBOER:** --adults who are taking care of them. Thank you, Mr. President.

**DeKAY:** Thank you, Senator DeBoer. Senator Albrecht, you're recognized to speak, and this is your third and final time.

**ALBRECHT:** Well, thank you, Mr. President. If anybody would like to get in, I'd sure like to talk the rest of the night. OK, I'm going to again, this is my last time I'm going to talk on the statutes. And there's only one section left here. Section 28-815 needs to be amended because it is currently provides an exception to K-12 teachers and administrators, allowing them to provide obscene materials to minors. Nebraska statute 28-815 currently provides that it shall be a defense to a prosecution under Section 28-813 that, (1) a person's activity consists of teaching in regularly established recognized educational institutions, galleries or libraries, or the publication or use of standard textbook films, tapes, visual aids of any such institution and-- or the-- not and, but or the practice of licensed practitioners of medicine or pharmacy in their regular business or profession or the profession [SIC] by established schools teaching art or by public art galleries, or artists or models in the necessary line of their art to-- or to relevant references to, or accounts or portrayals of nudity, sex, excretion in religion, art, literature, history, science, medicine, public health, law, the judicial process, law enforcement, education, public libraries or news reports and news pictures of any form of news media of general circulation. This is the section of the bill would-- this section of the bill would amend primarily by inserting the word "postsecondary" before the words indicating educational institutions, as indicated on the bill. Note that 28-815 expressly mentions the defense only to 28-813, which is in general a criminal obscenity statute. Other-- another statute makes 28-815 a defense to a charge of providing obscenity to minors. Nebraska State Statute 28-810 states: It shall be a defense to a prosecution under Sections 28-808 that such person's activity falls within the defenses of the prosecution contained in Section 28-18 [SIC]. Colleagues, you know, we have drug-free zones. We have gun zones. You are not allowed

to have guns on school premises. But you know what? In the state of Nebraska, obscenity is a safe zone in K-12 in their libraries. Providing obscenity to children is already illegal in Nebraska. This bill simply closes a loophole. It's illegal for someone to ply your child or grandchild into obscenity in movie theaters or local convenience stores. Why would it be allowed in schools? Anyone would-- why would anyone want to punish or, sorry, why would anyone want to push criminal obscenity on schoolchildren? Obscenity is not education. Parents have the primary responsibility for the education of their children. And when they send their children to school, they trust that the school administrators, teachers and staff will provide a healthy learning environment. Growing bodies of research show viewing obscenity has a devastating long-term effect on young people. An estimated 1 in 10 K-12 students will experience sexual abuse in the hands of a school employee at some point in their education. Obscene materials in schools can groom children for abuse. You know, we can talk a lot about the bill, but it is very simple. It is simply asking that--

**DeKAY:** One minute.

**ALBRECHT:** Thank you, Mr. President. --asking that K-12 not be a safe zone for obscenity with our children. And whether we can say how many cases there would be or not, we're not banning books. We're asking that our institution takes a look at what's going on in these schools. Again, there have been so many people and so many pleas in the state of Nebraska for our schools to please recognize the fact that, that all books aren't for all children of any age. Some are very offensive to some and not to others. But we wonder why we've lost some of our school teachers over these past 4 years. They had a moral compass that they were on, and they're very uncomfortable having to do some of the things that are being considered in our schools today.

**DeKAY:** That is your time.

**ALBRECHT:** Thank you, Mr. Pres--

**DeKAY:** Thank you, Senator Albrecht. Senator Conrad, you're next in the queue, but you only have your close remaining. Senator Day you-- or Senator Day, you are recognized to speak. And this is your third and final time.

**DAY:** Thank you, Mr. President. I'm just going to say a couple of things, and then I'm going to yield the rest of my time to Senator

Danielle Conrad. I understand that, that the emphasis here is being placed on asking schools and institutions to look at their libraries and determine if there is anything obscene in those libraries. But I need you to think beyond that step because there is a next logical step that would follow that is book banning. OK, we're either banning books or we are potentially sending librarians and educators to jail. That's the next step. So when we talk about that's not happening or that's not what the bill is about, though, that is the logical consequence of this piece of legislation. Number 2, I hope that all of us in this room realize that our kids have the internet, right? They all have the internet. If they don't have phones with unfettered access to the internet, their friends do. If their friends don't, their friend's friends do. They will find the information one way or the other. Either you can be there and present them with the conversation that's based in reality and not in shame to help guide them through that, their educators can be there, their librarians can be there to help guide them through difficult conversations in terms of the context and the content of some of the things that they're going to find in these books. Or they're going to find the information and the content in a much more grotesque way on the internet, with no one to talk to. These types of books, especially when they are presented with-- hold on. I'm going to go back just a little bit. I want to make it really clear that no one is saying that books for high schoolers should be given to 6-year-olds. There is not a single person on this floor that is advocating for that. We are all very aware. We have professional librarians and educators doing their job, putting age-appropriate content in the libraries and in the hands of students at 6 years old and at 16 years old. No one here is saying to give the book Lucky to a 6-year-old. No one is advocating for that. And to say that is to completely misrepresent our point and it's disingenuous. These books, especially when they are presented with care in an educational environment, in a controlled environment like a classroom, allow for a very serious and controlled conversation about real-life events that kids will otherwise have through life experience and, again, surrounded with shame and no one to talk to about. I yield the rest of my time to Senator Danielle Conrad.

**DeKAY:** Thank you. Senator Conrad, you're yielded 1 minute and 45 seconds.

**CONRAD:** Thank you, Senator Day. Thank you, Mr. President. You know what, colleagues? I want to make sure to clarify something, because my friend Senator Bosn was just absolutely wrong in terms of the [INAUDIBLE] the purpose of the criminal law. Something, something

constituents have concerns about things in books so risk criminal prosecution for librarians and teachers. Of all senators, a prosecutor making that argument is incredibly troubling. This bill opens up teachers and librarians to a Class 1 misdemeanor for doing their job. A Class 1 misdemeanor is a year in jail or \$1,000 fine or both. Examples of a Class 1 misdemeanor, Senator Bosn knows this, include things that are significant in terms of public safety, like assault, like stalking, like violating a sexual assault protection order. And she equates a book that she finds offensive as that same sort of threat to public safety. Wow. In addition to what we talked about yesterday, wherein if you are charged under this as a librarian or teacher, in order to prove your innocence without the affirmative defense, think about \$5,000 for a private attorney to fight for your rights and your livelihood in court. Let's say that you're found guilty for doing your job.

**DeKAY:** That is your time. Thank you, Senators Day and Senator Conrad. Senator Machaela Cavanaugh, you're recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. I remain in support of Motion 1270. I really hope that we finish this bill on General File tonight. I don't want to take this up again tomorrow. And I am asking this body to give me that. I don't think that I have done anything to warrant the ill treatment I have received, and I would like that ill treatment to end with this bill tonight. So with that, I will yield the remainder of my time to Senator Blood.

**DeKAY:** Senator Blood, you're yielded 4 minutes and 10 seconds.

**BLOOD:** Thank you, Mr. President. And thank you, Senator Cavanaugh. I agree, this has been a very long debate. And some of the things that have been said have been appalling and insulting. There's really nothing more I can say about this bill that hasn't been said on the floor already. So what I'd like to do is address some of the things that have been said tonight in reference to the bill debate this evening. And Senator Lowe, I'm so disappointed when you yet again bring up that we need to go back to 2-parent household families. Do you know why there is 2-- more 2-parent household families when we were younger? Because first of all, if you look at how the law went back then, women really had few rights. In the '70s, we finally were allowed to have a credit card without our husband's permission. If you looked at domestic violence situations, when the police came, they said it was a family matter and that they didn't have to deal with that. And it was shameful and embarrassing for the women because the



women were judged as being bad wives. The man was not judged as being a bad husband because women were considered basically property. You cannot compare what's going on today with what was going on when we were growing up. Women didn't have choices. Women didn't have the ability to go to a shelter because they really, literally didn't exist. Women didn't have their own money. They frequently had one family car that was meant for the husband to drive to and from work, because the children usually walked to school. To try and compare something from decades ago to today and say that that's what's wrong with the world today is ridiculous. It's very Handmaid's Tale. And I hate to use that expression because that sounds so eccentric, but good lord. Do you know how far women have come? And yet it seems that in the last 5 to 8 years they're trying to reel it back, because everything that can be made better in the world would be made better by taking away our rights, from our reproductive rights to our right to divorce. What right do you want to take next? And although that is likely not your intention, possibly someone gave you this information to read, be it your staff or you found it online or it's from ALEC, I'm really sick and tired of hearing this on the floor. We heard it over and over again last year. And the other issue I want to address is when did we become a nanny state? When did we decide that it was our job to tell parents how to parent?

**DeKAY:** One minute.

**BLOOD:** The world has changed and technology has changed it. Until we look at this holistically, we will never be able to solve the issues of all these bills that are coming forward in reference to things like obscenity and pornography and how children access them. So quit pointing fingers and making people feel uncomfortable. And let's talk about what the topic is and the topic of this bill is this is just about criminalizing librarians and teachers. It's really not even about book banning. We know it opens the door to that, but it is about criminalizing our teachers and our librarians. Thank you, Mr. President.

**DeKAY:** Thank you, Senator Blood. Senator Hunt, you are recognized to speak, and this is your third and final time.

**HUNT:** Thank you, Mr. President. This morning, when folks on the mic were saying we need to do better, that we all need to do better, and then things like what Senator Halloran did won't happen, in that moment when he was reading that passage, I was sitting in my chair and I had a reaction on my face that I know many people up in the front in

the dais saw and it was really-- you know, Senator Slama and I were talking about this. I wish I had done better in that moment. I wish I had stood up and said something. I wish that in real-time as we were hearing this being spoken and Senator Arch-- Speaker Archer said something similar this morning about if I had been in here, I was working on the agenda for tomorrow. I-- if I had known he would have read it, I would have prevented this. As I was sitting in my chair listening to it in real-time, my body went into that flight, fight or freeze mode that any survivor of sexual violence understands. When something, you know, when someone does something like that. And that was sexual harassment, period. When somebody does something like that, whether it's harassment or assault or whatever, your body goes into this fight, flight or freeze where it's like you almost lose the faculty. and then you think later and you're kicking yourself about like, I should have done this. I would have stood up and done something different next time. Next time it'll be different. If this happens again, this is what I'll do. And you have this story that you tell yourself in your head about how you're such a tough person. And this could never happen to me, and I'll never let it happen to anybody else. And we all tell ourselves these things to cope with the shame and embarrassment of freezing when it happens to you, if it happens to you when you go through something like that. The first time I was sexually assaulted was in eighth grade, and the situation, colleagues, was not super different from what Senator Halloran read on the mic yesterday. And when Senator Dover was also talking about he supports this bill because it's good to keep little girls naive, we have to keep our girls naive, and we have to let them keep their innocence. I know that's not what he was talking about when he said that. I don't think that he chose the right words. I don't think that he meant what he said. But all of the people who support bills like this, you are the same people that oppose things like comprehensive sex education, which I do think going through the games and the-- and the things that we tell ourselves after the fact, you know, I-- do you fight? Do you-- do you flee? Do you freeze? Do you fawn? That's another reaction that psychologists talk about people having in these situations. And, you know, when it happened to me in eighth grade for the first time, not the last, I thought for years and years and years to this day at age 37, of what I should have done differently. And one thing I do know, and I'm sure of, is if we had had age-appropriate, medically accurate, research-based health education about healthy relationships, about our bodies, about sexual violence prevention, that might not have happened to me. It might not have happened to lots and lots of other people, including from Senator Lowe's generation, when he thinks everything

was really fine and dandy back then, back when women couldn't have credit cards, back when this and that. And that is really, you know, the reflection on that experience as an adult because many of you know, I was very conservative as a young adult. I was the president of my college conservative group. I was on a lot of the stuff that you guys are on. And part of my evolution as a person was thinking back on that experience, and it got me involved advocating for comprehensive sex education. Senator Jen Day talked about a lot of the proven benefits--

**DeKAY:** One minute.

**HUNT:** Thank you, Mr. President. --of making sure that kids know the facts about their bodies, the facts about their own health. One thing that she knows but didn't mention in these extemporaneous speeches that we do, is that comprehensive sex education is proven to delay the onset of people's sexual debut. That means the first sexual experience they ever have, which is hopefully consensual as mine was not. It's proven that people who get comprehensive sex education, they have sex later in life. Many of them don't do it until college in some cases, and it's more likely to be safe. It's more likely to be consensual. And that's healthier for everybody. And all of these things-- Senator Albrecht talking about grooming. This is what's leading to grooming. No, it's people being in the dark and knowing that they can pick a victim who doesn't know how to stand up for themselves and they're not educated and they're ignorant. That is grooming. And that's proven. Thank you, Mr. President.

**DeKAY:** Thank you, Senator Hunt. Senator DeBoer, you are recognized to speak, and this is your third and final time.

**DeBOER:** Thank you, Mr. President. So maybe-- apparently, someone asked me what I was talking about last time, and they didn't understand what I was saying. So let me try and say it again. The reason that this affirmative offense is important, I think, is because taking it away will put educators in a position where they're choosing between risking criminal investigation, risking potential high-level misdemeanor charge and conviction for a book. And you may say, that's great. We want them to be afraid of that. I don't think we do. And I don't think you do, because we're going to end up with 7 books in the library. Now, that's an exaggeration and nobody yell at me that that's an exaggeration. I recognize that that's an exaggeration. But we're going to significantly reduce the number of books available to our children past the degree that any of you in here wants. And that's

because no one is going to, not no one, but the vast majority of folks are not going to put a book in a library if they think there is even one parent who's going to drag them to court because they're, they're not going to want to take that risk. The, the affirmative defense is there to prevent that from happening. If a librarian is, in fact, giving children legally obscene material, there's going to be a whole lot of consequences for that person. And, and we don't need this statute to get there. That's the only way I can describe it, is that what's going to happen if you take away this affirmative defense is that's not getting at what you want to do, which is get at a bunch of books. It will in some cases have the effect of removing those books because there will be an overcorrection when we, we take librarians and educators and we say, if you don't choose the way we think you should choose, we're going to put you in jail. I-- who would take that risk? And the problem is, there are not 2 of us in this room who would go through a pile of 100 books and all come to the same conclusion about it. I have a degree in literature. There's another one. People have vastly different opinions about literary merit, about how good a book is, about all sorts of things with respect to literature. We're not going to all have the same decision. We've got to trust that the librarian is going to get it mostly right, mostly close. You may think they haven't done that because here are books that we don't like that are there. In Nebraska, you, I think have-- a librarian just sent me something. You have to have a 4-year degree, teaching degree. And additionally, you have to get a, I think she said library certification or endorsement or something like that. It's a-- it's an additional measure--

**DeKAY:** One minute.

**DeBOER:** --of certification. Those folks ought not risk prosecution because they, they choose a book slightly differently. And I know you're going to say this isn't slightly different. But, but that's going to be every case. They're going to say, h'm, Jaws. H'm, I don't know. I don't want anyone having that second guessing. I want them to go through and use all of their education and not have to think about whether or not it's prosecution. I want them to use-- I want them to use their best-educated information to decide what should be in the libraries. And if parents don't like the things that they're in the libraries, parents should deal with the individual library.

**DeKAY:** That's your time.

**DeBOER:** Thank you, Mr. President.

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**DeKAY:** Thank you, Senator DeBoer. Senator Erdman has a guest under the south balcony, Parker Jessen from Oshkosh, Nebraska. Would you please stand and be recognized? Thank you. Senator Lowe, you are recognized to speak. And this is your third and final time.

**LOWE:** Thank you very much, Mr. President. I yield my time to Senator Albrecht.

**DeKAY:** Senator Albrecht, you have 4 minutes and 50 seconds.

**ALBRECHT:** Thank you, Mr. President. Thank you, Senator Lowe, since this will probably be my last time if we're going to get something going here. You know, a lot of times when you have these bills and you go 8 hours, it's hard to say anything more than what you've already said. And I'm quite certain tonight we have more viewers than we had last night and are looking for the guidance from this, this floor tonight to be able to do just what I said about Article VII. It is our duty on this floor to bring law and order to our state when things are not going in the right direction. And I really still believe in my heart of hearts that we have got to protect the children. We have to protect their, their young minds from being exposed to these things that they shouldn't be. If it's obscenity, it's spelled out in the law. If somebody is not guilty, they're not guilty and they're not going to be charged. But that's for the courts to decide. If we can have obscenity throughout our whole state but we don't have it in our schools, there's something wrong with that. Absolutely something wrong with us not protecting the children. And I can't believe, truly, that there's anybody here tonight that feels that they, they can't come to the call when it comes to the children in our schools, their safety. We talk about guns, you know, we talk about drugs. But when it comes to sexualizing the children in ways that they cannot come out of that, I mean, it's-- what was, was said last night. I did not want to hear any part of the testimonies on the floor, because to me, I think that's a violation myself of disclosing something like that in a public setting. But yet in K-12, it's a safe zone. It's a safe zone for anybody who's there that wants to share any of this information, no matter what age group it is. You know, when I grew up, we didn't have-- I mean, we had the boys go in one room, the girls went in to another, they talked about things and that was it. That was what was said. You went home. Hopefully you were able to talk to your parents about it. They figured it out. It's just not something that needs to go to me any further than that. We have an obligation to teach our children and to bring our grades up, and we have an obligation that they read before they leave third grade. We have a literacy. I mean,

we decide on this floor what direction our Department of Education and our State Board of Education and the districts, we decide what laws should be passed and why. So I'm just asking you, and I implore you to think of the children and let's defend the parents that are asking for this, that are wanting this to be a reality. You know, I didn't just work on this the last 4 years because it was, was something front and center, but it became front and center when we had the health scare, the health standards and started to allow people into our schools that are-- that are promoting things that maybe they shouldn't be. We have-- we have a Library Commission at the-- at the, you know, like this, I believe it's American Library Commission or an association that puts these books, suggests these books like they're bestsellers. I mean--

**DeKAY:** One minute.

**ALBRECHT:** --there's a lot of schools that won't take a book out that I happen to have the last 4 years. It doesn't get opened very often, but it's in my office. It's perfectly normal. It was on the bestsellers list. That's why the librarians wouldn't take it out of the, the school libraries, because they were told it's on the bestseller list. But bestseller list to who? Who rated that? I'm just telling you, we have got to protect the children in an-- and to enable us to do that, we have to change the obscenity law that has to go in to K-12 and the libraries within those schools, and let the courts decide if somebody is going to be charged with something. And again, it should be our institution, the Department of Education, the State Board of Education, it should be the principals, the districts--

**DeKAY:** That is your time.

**ALBRECHT:** --the school boards. Thank you, Mr. President.

**DeKAY:** Thank you, Senator Albrecht. Senator Walz, you're recognized to speak. And this is your third and final time.

**WALZ:** You know, I think this is the-- almost the first time I've ever had a third and final time. Honestly, I don't think I've ever done that before. So I am-- I guess I am not obviously a lawyer and would have no idea how, how the whole process works. I've talked a lot about how I think that there are other ways that we should handle this and I think a lot of those ways include policies and procedures within our school boards. But I am curious to know just kind of how, how this

process would work. So, Senator Cavanaugh, would you answer a question or George, I mean, Senator Dungan. Would you yield to a question?

**DeKAY:** Senator Cavanaugh, would you yield to a question?

**J. CAVANAUGH:** Yes.

**WALZ:** Thank you. So if I am a parent and my student or my child brings home reading material that I don't agree with, am I-- like, am I then supposed to call the police? Am I supposed to call the school? How does-- I'm not sure how the process works, to be honest with you.

**J. CAVANAUGH:** Well, so if your child brings home something that you think is obscene because there's a difference between something you don't agree with and something that's obscene, but under this if you-- and you think it's obscene, you could certainly call the school and register a complaint with the school. But considering that you-- if it's your opinion that your child brought home obscenity from school, you could certainly call law enforcement and engage them. Because at that point, if you think your child was given obscenity by the school, you could-- that would be a crime and you could report that.

**WALZ:** OK. So that right there kind of concerns me, because I'm afraid that that would probably start like a, I don't know, maybe there would be a group of people who would decide that they were just going to not call the school and go directly to the police if they found content that was-- that they did not think was appropriate for their kids. Is that-- that could likely happen or that could happen?

**J. CAVANAUGH:** So I guess if I'm understanding your question, are you saying do you have to be a parent to report something in school is obscene? Is that your question? I-- so my-- I-- if that-- is that your question?

**WALZ:** Sure.

**J. CAVANAUGH:** OK. So my understanding of the law as written would be that anyone, if they believe there's obscenity in the school or the school library or under this bill in the public library, they would be able to report that to whatever appropriate authority. So in Dodge County, if you-- if you thought the Fremont Public Library had something that you found obscene, you could call the Dodge County Sheriff's Department or Fremont Police Department and report that. And you could do that if you're a parent, but you could do that if you're somebody who looks at the card catalog online, which I know a lot of

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schools have, and just pick out all the things that are on some national list of books that people don't like and report all of those.

**WALZ:** OK. Thank you, Senator Cavanaugh.

**J. CAVANAUGH:** Sure.

**WALZ:** Senator Albrecht, could I ask if Senator Albrecht would yield to a question?

**DeKAY:** Senator Albrecht, would you yield to a question?

**ALBRECHT:** Yes.

**WALZ:** Thank you, Senator Albrecht. I am really honestly just trying to process this. Is that what you would intend to have happen? If I was a parent or there was a group of parents that found material in their child's backpack that they didn't agree with, that they would call the police and, and the police would then go to the school? Is that what your--

**DeKAY:** One minute.

**WALZ:** --could that be part of the-- what's the intention? Could that happen in this bill?

**ALBRECHT:** Honestly, I would think that they would take it up with the school superintendent or principal. And I'm quite certain today they have things that they should do. They could take it to the school board and say, I think this is inappropriate. I mean, is the child actually reading the book or are they just taking it home? Did somebody show it to them and tell them that they should read it? I mean--

**WALZ:** Yeah.

**ALBRECHT:** --there's a lot of extenuating circumstances.

**WALZ:** But, but nothing in the bill prevents a parent or a group, a large group of parents, from calling police and having the police go to the school.

**ALBRECHT:** No, I don't-- I don't see that happening at all. No.

**WALZ:** No, I'm saying nothing would prevent that from happening so it could happen.



**ALBRECHT:** Well, again, today I mean, they're going in droves to the meetings, you know, to talk about what [INAUDIBLE]

**DeKAY:** That is your time.

**ALBRECHT:** Sorry.

**WALZ:** All right. Thank you.

**DeKAY:** Thank you, Senator Albrecht, Walz, and Cavanaugh. Senator Erdman, you are recognized to speak.

**ERDMAN:** Thank you, Mr. President. Good evening. I'm not sure whether people back home can see us in here it's so dark. I spoke about these lights before. We have 1927 lights in 2024. Doesn't seem to help. Anyway, getting to the bill, I'm, I'm making a conclusion. I've drawn a conclusion that I'm completely confused about what obscenity is. I thought I knew, but after listening to the comments and the questions, I don't get-- I guess I don't. But I don't know what happened to common sense. Common sense is, like it used to be 25 years ago. You didn't put objective material in the library for young, innocent young folks to see. That was common sense. But I've, I've said this before, and I'll say it again, common sense is a flower that doesn't grow in everybody's garden. But what I've also discovered is when we don't agree with someone and their opinion, they begin to use their outside voice in the microphone. You could call it yelling, I guess. So I want to share a story with you. One time, about 35 years ago, we had people come to our farm and they were going to work on our beet fields. And as the conversation went on, I began to speak louder and louder until where I was almost yelling. And my son Philip was standing there, he was about 10, and he said, Dad, listen. He said, these people, they're not deaf, they just don't understand English. So yelling doesn't help. So let me just say this to those who use their outside voice on the mic. We hear you. We hear what you're saying. We just don't agree with you. So yelling or outside voice, using your outside voice doesn't change our opinion or bring us to your side. So just state what you have to say in a normal tone. I can normally hear you except for the person who speaks in the mic in the front. But I can hear most everyone else. But it's peculiar. We've been talking about this for about 6.5 hours, and we seem to have forgotten who we're trying to protect here. It's the young people, it's the children. But we got to speak about what this is going to mean for somebody getting arrested or whatever the issue is. And if you look at the bill, you really reviewed the bill and read it, it's like one page. The bill is a total

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of one page. It's not difficult to understand. It's not hard to read. And it's very straightforward. And so we will go till 10:20 tomorrow or whatever that time frame is to get 8 hours and then we'll make a decision. But what I have a difficult time understanding is whatever happened to common sense? And obviously that is no longer applicable in this case. Thank you.

**DeKAY:** [RECORDER MALFUNCTION] Senator Erdman. Senator Conrad has guests in the north balcony, members of the Nebraska Library Association across the state. Would you stand and be recognized? Senator Machaela Cavanaugh, you're recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. Would Senator Dungan yield to a question?

**DeKAY:** Senator Dungan, would you yield to a question?

**DUNGAN:** Yes.

**M. CAVANAUGH:** Thank you so much. That other guy, sometimes, I don't know. Yeah. So Senator Walz was asked this question and then I, actually, didn't listen to the answer because I got distracted. But if someone who is not a parent, let's say you, for example, decide that you-- I'm showing you books that my kids have from school and you decide that you think that they are obscene. If under this law, could you go to the police?

**DUNGAN:** Yes, I believe so.

**M. CAVANAUGH:** And you live in Lincoln, I live in Omaha.

**DUNGAN:** Correct.

**M. CAVANAUGH:** You don't-- you, as far as we're aware, don't have children.

**DUNGAN:** Correct. I, I do not have children.

**M. CAVANAUGH:** OK. So that's kind of the crux of my conflict here is that I don't want people who think it's OK to go through libraries and find the most salacious content possible and post it on social media determining what my children will receive for an education. Say, the State Board of Education member Kirk Penner, who posted pictures of two caricatures giving-- well, I'm not going to say you can just look at Kirk Penner's Twitter. I don't want people who are showing up at

school board meetings and in the Legislature who don't have children, who aren't educators, who aren't librarians going to the police and having my children's education disrupted because their teacher is arrested for having a body positive book that somebody says is indoctrination or heaven forbid a, what is consent book? Because if the true nature of this is to stop people from being groomed, kids need to know what bad touch is. Kids need to know that it is OK to tell an adult that they cannot touch them somewhere. But what if somebody else, one of the people that thought it was appropriate to read pornography into the public record on public TV for children to see, what if those people decide that my child shouldn't have the education that my husband and I and the school district thinks that my child should have? That's what this is going to do. This is going to put the education of my children into the most extremes. What if somebody decides that a religious school shouldn't have religious texts? There is nothing stopping an atheist, a Satanist, from going to every religious school in the state and saying, nope, that is obscene, that Bible is obscene, that religious text is obscene. And you will be, like, what, and, ultimately, yeah, the courts will probably find in favor of the schools. But in the meantime, we have authorized an investigation with this bill. This is not the way forward. My children deserve to have an excellent education.

**DeKAY:** One minute.

**M. CAVANAUGH:** Every child in this state does. And my children deserve to not have their education disrupted by political yahoos who tweet and make fun of their mother for crying about being harassed sexually on the floor of the Legislature. Yeah, I don't want those people deciding what my children get educated with. They clearly don't have common sense. And it wasn't free speech, it was harassment. It was sexual harassment, it was public, and it was on the floor of the Legislature. And there aren't good people on both sides. And this isn't the end of this conversation. This is the beginning. Thank you, Mr. President.

**DeKAY:** Thank you, Senator Cavanaugh. Seeing no one else in the queue, Senator Conrad, you are recognized to close on your bracket motion.

**CONRAD:** Thank you, Mr. President. Can you remind me, do I have 5 minutes in closing, is that right? Yeah. Thank you, Carol. Appreciate it, saw you nodding. OK. Thank you, Mr. President. Thank you to the Clerk's staff and, and thank you, colleagues. We've had a lot of debate on the initial bracket motion which, as I noted during refresh

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and I think perhaps during opening yesterday, I filed the bracket motion to help us structure debate. I wasn't exactly sure when we embarked on this journey together in regards to this specific measure, whether we were going to have a full filibuster, whether folks minds were made up, whether people were listening to debate, whether there were any sort of opportunities to maybe make concessions or push the bill farther along but it sounds like Senator Albrecht and her supporters are very resolute in their decision to continue debate on this measure, as is their right. It seems that there's probably not enough votes in the body to break a filibuster. And so that's why we are where we are, because that is the quickest and surest way to kill a bill for the year if the proponents and supporters are not willing to, to come to that conclusion on their own. And that's OK. That is their right. So to be clear, how we found ourselves here today is not because myself or Senator Cavanaugh or Senator Dungan or others want to spend a great deal of time and energy debating this bill. This bill was brought forward by our colleague, Senator Albrecht. It was voted out by a majority of members on the Judiciary Committee because they felt it important to advance the bill. It was placed on the Speaker-- on the agenda by the Speaker who has essentially the sole province of setting the agenda. And at each point along the way, every member of this body was well aware that this was part of a manufactured culture war that was going to turn up the heat, that was going to spark dissension. And guess what? It did. It did, and it went off the rails. And we had to work through that last night and this morning and I think that we did the best that we could do considering the circumstances and the legal policy and practical issues involved. And I ask each of you who came up and applauded my speech in robust defense of free expression to apply that same commitment to free expression to our teachers and our librarians who are highly trained professionals who are doing their job and shouldn't have to face risk of criminal prosecution, entanglement in the criminal justice system because they're doing their job. And that's what this bill would heighten, is a risk for criminal prosecution. As Senator Bosn said, well, it's really no big deal, it's a Class I misdemeanor. Wow, really? It carries potential jail time. It carries a potential fine or both. It will cost thousands of dollars of your money that you don't have a lot of when you're a teacher or a librarian because you don't make a lot of money to defend yourself.

**DeKAY:** One minute.

**CONRAD:** Whether or not you're found guilty under these statutes, there will be collateral consequences for your professional license. There

will be headlines. There will be your picture in the paper because the processes in place to put books on shelves are carefully curated. The processes in place to remove objectionable material are in place. But that's not good enough for the folks that find certain aspects of certain books offensive. They have to weaponize the criminal law to chill and to silence and bully teachers and librarians into submission because they're worried about a passage in a book. You know what's dangerous? Books aren't dangerous, Senator, weaponization of the criminal law--

**DeKAY:** That is your time.

**CONRAD:** --against teachers and librarians is. Thank you, Mr. President.

**DeKAY:** Thank you, Senator Conrad. The question before the body is, shall LB441 be bracketed until 4-18-24? All those in favor vote aye; all those opposed vote nay. There's a request for a call of the house. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

**ASSISTANT CLERK:** 28 ayes, 8 nays, Mr. President, to go under call.

**DeKAY:** The house is under call. All senators removed from the body, please return to the Chamber. All persons-- all unauth-- excuse me-- unauthorized personnel, please leave the floor. The house is under call. Senator Wishart, Senator Walz, Senator Bostar, Senator Bostelman, Senator McDonnell, the house is under call. Senator Wishart, Senator McDonnell, please return to the Chamber. The house is under call. Senator Albrecht, we are lacking Senator McDonnell. May we proceed? Mr. Clerk, the question before the body is to bracket the bill LB441. Senator Conrad, there is a vote open. Will you accept call-ins? There has been a request for a roll call vote. Please record the vote, Mr. Clerk.

**CLERK:** Senator Aguilar voting no. Senator Albrecht voting no. Senator Arch voting no. Senator Armendariz voting no. Senator Ballard voting no. Senator Blood voting yes. Senator Bosn voting no. Senator Bostar voting yes. Senator Bostelman voting no. Senator Brandt voting no. Senator Brewer voting no. Senator John Cavanaugh voting yes. Senator Machaela Cavanaugh not voting. Senator Clements voting no. Senator Conrad voting yes. Senator Day voting yes. Senator DeBoer voting yes. Senator DeKay voting no. Senator Dorn voting no. Senator Dover voting no. Senator Dungan voting yes. Senator Erdman voting no. Senator

Fredrickson. Senator Halloran voting no. Senator Hansen voting no. Senator Hardin voting no. Senator Holdcroft voting no. Senator Hughes voting no. Senator Hunt voting yes. Senator Ibach voting no. Senator Jacobson. Senator Kauth voting no. Senator Linehan voting no. Senator Lippincott voting no. Senator Lowe voting no. Senator McDonnell. Senator McKinney voting yes. Senator Meyer voting no. Senator Moser voting no. Senator Murman voting no. Senator Raybould. Senator Riepe not voting. Senator Sanders. Senator Slama. Senator Vargas voting yes. Senator von Gillern voting no. Sandra Walz voting yes. Senator Wayne. Senator Wishart voting yes. Vote is 12 ayes, 28 nays, Mr. President, on the motion to bracket the bill.

**DeKAY:** The motion failed.

**DeKAY:** Mr. Clerk, for the next item. Raise the call, please.

**CLERK:** Mr. President, Senator Machaela Cavanaugh would move to reconsider the vote just taken on the motion to bracket the bill.

**DeKAY:** Senator Cavanaugh, you're recognized to open.

**M. CAVANAUGH:** Thank you, Mr. President. I was looking through my drawer for a scrap of paper earlier and I came across some recipes from last session. And it has me reflecting, reflecting on what Senator Hunt said when we failed to override the veto of LB307. I have tried so hard this year to shut up and sit pretty, to be who you wanted me to be, to behave the way you wanted me to behave, to be a good girl, not cause too much trouble, to do the right thing for the institution when it was required of me because others wouldn't at my own expense. And we're on Day 46 of a 60-day session. And I look back on the last 46 days and I, genuinely, wonder what did I do it for? You don't care about me, not as a colleague and not as a person. You don't care about me. You care about hurting me. I've learned that lesson over the last 6 years. You really care about hurting me. You care about teaching me lessons. I always need to be taught a lesson. Oh, we can't give you that, Senator Cavanaugh, you need to be-- learn a lesson. To be a woman in this body, to be a woman in any governing body is hard on a good day. It's usually more exhausting than I could even begin to express. And people would ask me last year how I could maintain talking for so many days and being here for the last 46 days I questioned how I did that, I do. How did that happen? How did that work? It worked because contrary to what you all think, I am a good person who is driven by morals and principles and I will stand up repeatedly despite the abuse, despite the game playing, despite it

all, I will continue to stand up. Yes, I was hurt by what was said last night. Yes, I was offended by what was said last night. But I keep standing up because "deminimizing" it is minimizing victims of assault, minimizing the author of that book whose words were co-opted, whose trauma was co-opted for theater. I am driven by morals and principle. I have a true north and I follow it. And I am kind and I am compassionate even when you don't deserve it. I will give you compassion even when you are hurting me because I am such a good person. And I still know this about myself after 6 years of you all trying to tell me that I was evil or that there was something wrong with me, that I wanted to brainwash children or groom my own children. I held strong because I have love in my heart, I have kindness, I have compassion, I have friends like Senator Walz who remind me for 6 years that I have those things. God bless that woman. She reminds me to have grace when grace isn't necessarily what is deserved, it is what is called for. And I have never, ever received an ounce of grace from you. I deserve better. Nebraska deserves better. This body should demand better. And if for some reason you all thought that this morning was the end of it, you were wrong. It was not. That was barely an acknowledgment of anything. That was a handful of people sort of acknowledging something, mostly tone policing and saying there's good people on both sides and we just need to move forward. I'm not moving forward. The woman who wrote that book did that to help herself move forward and it was co-opted. It was co-opted. And I will yell if I want to yell, because so many of you tell me that I talk too quiet anyway, so here you have it. This is not my fault. This is not the fault of any person, man or woman who has ever been sexually harassed, sexually assaulted. It is not their fault. It is the fault of people who put my name in their mouth when asking for a blowjob. Yes, it is disgusting. It is disgusting. So we're going to keep talking about it until we have a resolution. Thank you, Senator Dover, so much for your disrespect to me right now.

**DOVER:** Disrespect, are you kidding me?

**M. CAVANAUGH:** Yes.

**DOVER:** I know you're kidding me.

**M. CAVANAUGH:** You are being so disrespectful.

**DOVER:** Oh, I am?

**M. CAVANAUGH:** Yes, you are. Yes, Senator Dover, you are being disrespectful as I stand here and talk and you pound your way through. This is what I'm talking about. This is the norm for how you treat me. I yield my time.

**DeKAY:** Thank you, Senator Cavanaugh. Senator John Cavanaugh, you're recognized to speak.

**J. CAVANAUGH:** Thank you, Mr. President. Well, I appreciate an opportunity to speak. I think I'll probably be the last one at the end of the night here. I had other things I was going to say, obviously. I do think that everyone kind of has a different perspective on things. I, I would say some of us get a little too loose, especially at 8:55 with how we behave. And there's a lot of, like, you don't notice, you're standing in front of the camera sometimes in front of somebody and it's, you know, distracting the folks at home, but it's distracting the person who's talking. And so I would say there, you know, Senator Dover, you probably should have been a little bit more conscious of the fact that you're right on camera and in front of somebody who's talking. Even if you don't agree, that's what this whole conversation is about. So conversation is about protecting things that we don't agree with and not persecuting ideas that we don't agree with. We've talked about prosecuting and a lot of folks-- Senator Moser and I talked about this, he's not concerned about prosecution. But, Senator Moser, I'm concerned about persecution. I'm concerned about passing this bill, not necessarily leading to more prosecutions, but I'm worried about it leading to persecution of librarians and teachers and persecution of ideas that people find unfavorable. So that's-- I'm glad to get to be the last thought for you for the night. I think it is really important to think about this. We've had a lot of great learning moments as this debate has evolved, and it didn't quite go where I thought it might. It took some turns, but take things for the value that they give you and we can all learn something from it. And so I would hope the folks who voted red on the bracket motion will take the night and think about it. We're going to finish this thing tomorrow morning and think really about what you want. Don't convince yourself by straw man arguments of there is obscenity in schools and that we should be making sure that 6th graders aren't reading what 12th graders are reading, because that is a straw man argument. No one is advocating for 6-year-olds reading what 12th graders are reading or anywhere in between. People are advocating for age appropriate literature to be available in schools and libraries, and not subjected to persecution by people who don't like some of the ideas represented in those books, and people who lean



on straw man arguments and stunts, cheap stunts where they sexualize individuals for effect. Those are not winning arguments. They should not convince you to support this bill. They will not help children. So I would encourage you when you go home tonight and think about this, talk to your loved ones, talk to your kids, talk to your grandkids, talk to your spouses about whether you think you're supporting this bill because--

**DeKAY:** One minute.

**J. CAVANAUGH:** --thank you, Mr. President-- it actually does something to prevent kids from being exposed to obscene material or if it's about preventing people from sharing ideas that make you uncomfortable. It's about people reading and existing in a, a different life than one that you've experienced. And I would suggest again, to go out, seek out one of these books. Read them. Have a little empathy for someone whose experience is different than yours, and maybe you will understand why those of us who enjoy books that represent these other lives are so fervent in our desire to protect books and protect libraries from persecution. Thank you, Mr. President.

**DeKAY:** Thank you, Senator Cavanaugh. Mr. Clerk, for some items.

**CLERK:** Mr. President, motions to be printed from Senator Bosn to LB25. Senator DeBoer, amendment to be printed to LB1167. Senator Armendariz, amendment to be printed to LB934. New LR, LR333 from Senator Conrad. That will be referred to the Executive Board. Finally, Mr. President, a priority motion, Speaker Arch would move to adjourn the body until Wednesday, March 20, 2024, at 9:00 a.m.

**M. CAVANAUGH:** Call of the house.

**DeKAY:** There's a request for a call of the house. The question is, shall the house go under call? All those in-- all those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 14 ayes, 16 nays to place the house under call, Mr. President.

**DeKAY:** The house is not under call. The question is, shall the body adjourn? Mr. Clerk, please call the roll.

**CLERK:** Senator Aguilar voting yes. Senator Albrecht voting yes. Senator Arch voting yes. Senator Armendariz voting yes. Senator Ballard voting yes. Senator Blood voting no. Senator Bosn voting yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office

Floor Debate March 19, 2024

Rough Draft

Senator Bostar voting yes. Senator Bostelman voting yes. Senator Brandt voting yes. Senator Brewer voting yes. Senator John Cavanaugh voting no. Senator Machaela Cavanaugh voting no. Senator Clements voting yes. Senator Conrad voting yes. Senator Day voting no. Senator DeBoer voting yes. Senator DeKay voting yes. Senator Dorn voting yes. Senator Dover voting yes. Senator Dungan voting no. Senator Erdman voting yes. Senator Fredrickson. Senator Halloran voting yes. Senator Hansen voting yes. Senator Hardin voting yes. Senator Holdcroft voting yes. Senator Hughes voting yes. Senator Hunt voting no. Senator Ibach voting yes. Senator Jacobson. Senator Kauth voting yes. Senator Linehan voting yes. Senator Lippincott voting yes. Senator Lowe-- Senator Lowe voting yes. Senator McDonnell. Senator McKinney voting no. Senator Meyer voting yes. Senator Moser voting yes. Senator Murman voting yes. Senator Raybould. Senator Riepe not voting. Senator Sanders. Senator Slama. Senator Vargas voting yes. Senator von Gillern. Senator Walz voting yes. Senator Wayne. Senator Wishart. Vote is 32 ayes, 0 [SIC--7] nays, Mr. President, on the motion to adjourn.

**DeKAY:** The body is adjourned.