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Floor Debate  
March 21, 2017

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[LB14 LB16 LB46A LB46 LB83 LB140 LB148 LB187 LB207 LB233 LB271 LB333 LB334  
LB335 LB336 LB420 LB447 LB518 LB590 LB611 LR26 LR63 LR64]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifty-first day of the One Hundred Fifth Legislature, First Session. Our chaplain for today is Senator Watermeier. Please rise.

SENATOR WATERMEIER: (Prayer offered.)

PRESIDENT FOLEY: Thank you, Senator Watermeier. I call to order the fifty-first day of the One Hundred Fifth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

CLERK: I have no corrections.

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

CLERK: Your Committee on Enrollment and Review reports LB16 as correctly engrossed. The Appropriations Committee Chaired by Senator Stinner reports LB611 to General File with amendments attached. I have a confirmation report from the Retirement Systems Committee that's offered by Senator Kolterman. An announcement: Mr. President, the Transportation Committee will meet in Executive Session at 9:30 in Room 2022. That's all that I have, Mr. President. (Legislative Journal pages 769-770.) [LB16 LB611]

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PRESIDENT FOLEY: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR63 and LR64. We will now proceed to the first item on the agenda, Mr. Clerk. [LR63 LR64]

CLERK: LB148, a bill by Senator Schumacher. (Read title.) Introduced on January 9, referred to the Banking, Commerce and Insurance Committee, advanced to General File. I do not have committee amendments. I do have an amendment to the bill from Senator Schumacher. (AM192, Legislative Journal, page 542.) [LB148]

PRESIDENT FOLEY: Senator Schumacher, you're recognized to open LB148. [LB148]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. What a great way to start out with the day, a 79-page bill on the securities laws from our Department of Banking. The securities laws in Nebraska in its present form came into being in 1965, replacing the original blue sky laws. There were several minor amendments to the law over the years and there was a review that was deemed to be a good idea. And LR431 was passed last year and a review was headed by Speaker Scheer, then in his capacity as Chairman of the Banking, Commerce and Insurance Committee. There were committee staff, securities industry professionals, folks from the Department of Banking, and they met monthly in order to suggest updates to the securities laws, reflecting many of the changes in the securities business as well as the federal regulatory scheme over the last few decades. Reducing regulatory complexity and encouraging capital formation in Nebraska while maintaining and enhancing investor protections was at the forefront of the discussions. After many drafts and redrafts, the study committee produced what is now before you as LB148. Speaker Scheer was involved in that committee as well as Chairman Lindstrom and Vice Chair Matt Williams from the Banking, Commerce and Insurance Committee. LB148 advanced from committee on an 8-0 vote. It carries no fiscal note and there was no opposition to the bill. In particular, some of the provisions in the 79 pages, it would update Section 8-1101 and would update the cross references to the federal statutes as they existed on January 1 of this year. It also cross references to the federal regulations as those regulations existed on January 1 with an exception of Rule 147, which deals with smaller offerings at the federal level and those regulations were in 2016. LB148 clarifies the department's enforcement authority over broker-dealers. It deals with also Section 8-1103(9)(a),

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which would be amended to clarify the enforcement action can be initiated for failure to cooperate with the regulatory authorities, and that would constitute a dishonest or unethical practice under our laws. There's a new subsection at 8-1103.10(b) which authorize issuance of a notice of abandonment if an applicant doesn't follow up within 120 days on inquiries as to its applications. It proposes to amend (Section) 8-1107 by requiring issuers to seek to register securities by qualification by clarifying that that can be done by submitting signed consents from any person in the named registration statement. It also proposes a number of amendments to Section 8-1110 and 8-1111 to make it easier for issuers to raise capital, to do so without having to register securities with the department; there being also an overlying federal rule that they would register under, however. And 8-1110(5) provides an exemption for any security that is a federal security under the Federal Securities Act. (Section) 8-1111(8) would add certain entities to the definition of accredited investors, sales of equity which all of the equity owners are individual accredited investors would be exempt. (Section) 8-1111(17) clarifies the scope of the exemption for securities issued in connection with employee benefit plans. (Section) 11-1123 would be amended to increase the maximize the amount that can be raised pursuant to the interstate exemption for very small offerings from \$250,000 to \$750,000, and AM192 which will be presented just after this presentation clarifies a couple of issues with that. (Section) 8-1111(24) authorizes issuers conducting a crowdfunding offering--that was something we passed I believe it was last year--to rely upon a new SEC rule for the Securities and Exchange Commission, Number 147A. LB148 proposes to amend (Section) 8-1120 to clarify that the director may appoint a deputy director. And it would authorize filings by electronic means and any other means designated by the director. That's a brief overview of the recommendations and the proposal before you as LB148. It essentially is an update that a lot of hard work went into of our securities laws. Securities are things like stock and it is one of the two principal ways that businesses raise money. You sell shares in your business and you also borrow money from the banking and insurance folks. So that's how we finance business in the capital system. With that, that concludes my opening remarks regarding LB148. [LB148]

PRESIDENT FOLEY: Thank you, Senator Schumacher. (Doctor of the day introduced.) Mr. Clerk, I understand there is an amendment at the desk. [LB148]

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CLERK: There is, Mr. President. Senator Schumacher would move to amend with AM192. (Legislative Journal page 542.) [LB148]

PRESIDENT FOLEY: Senator Schumacher, you're recognized to open on AM192. [LB148]

SENATOR SCHUMACHER: Thank you, Mr. President. AM192 in its original form was LB187. It advanced on an 8-0 vote out of the Banking Committee. There was no opposition testimony, it carries no fiscal note. It does two simple tweaks to the LB148 before the body. The first tweak is LB148 took the level of funding available under a very small offering of securities from \$250,000 to \$750,000 because that would be an amount that would be more functional in today's world in trying to get a new business started in a very small way. And what AM192 does is adds that that \$750,000 figure can be inflation adjusted as time goes on so we don't have to come back and back again to tinker with raising the level over the next years as we probably will experience some inflation. The other thing that it does is it helps to remove an impediment to utilization of this particular exemption under the Securities Act that arises from the fact that securities are such a wide-ranging thing from little tiny things like our experience in (Section) 8-1111(23), like we're talking about here for the \$750,000 to huge "multigazillion" dollar things that big corporations use. The little offering does not carry much liability. In fact, probably less liability than closing on an 80-acre tract of land for an attorney or an accountant. But, nevertheless, for purposes of malpractice it lumps them in with the big, big-end, highly vulnerable transactions. So this basically says that this little exemption that tops out at \$750,000 under 8-1111(23) shall not be considered as a security for the purposes of professional malpractice insurance. And, hopefully, this will encourage our professionals in accounting and law and finance, particularly in rural Nebraska, to not shy away from starting and helping to start businesses using a small issuance of equity credit. I would encourage your votes and ask for your votes for AM192 and subsequently LB148 today. Thank you. [LB148 LB187]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Members, you've heard the opening on the amendment. Senator Kolterman, you're recognized. [LB148]

SENATOR KOLTERMAN: Good morning, colleagues. And thank you, Mr. President. I rise in support of AM192 as well as LB148. Both of these bills, one that's now on amendment, were

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heard in Banking and Insurance. As Senator Schumacher said, there was no opposition. I would also like to compliment Senator Scheer, Lindstrom, Williams, and Schumacher for the countless number of hours that they've put into the legislation and tell you that they truly did their homework and it is a good bill. So I'd encourage everyone to vote green on the amendment as well as the bill. Thank you. [LB148]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Mr. Clerk for an announcement. [LB148]

CLERK: Mr. President, a revision: The Transportation Committee will hold an Executive Session at 9:30, but they will now meet in Room 2102. Transportation Committee in 2102 at 9:30. [LB148]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Seeing no other members wishing to speak on the amendment, Senator Schumacher, you're recognized to close on AM192. [LB148]

SENATOR SCHUMACHER: Thank you, Mr. President. AM192 is, again, two minor tweaks to the bill that deals with the very small offerings of securities and hopefully will encourage entrepreneurial activity and utilization of the option to help finance businesses by the sale of interest in a business through stock. Thank you. [LB148]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Members, you've heard the debate on AM192. The question before the body is the adoption of AM192 to LB148. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record please, Mr. Clerk. [LB148]

CLERK: 41 ayes, 0 nays on the adoption of Senator Schumacher's amendment. [LB148]

PRESIDENT FOLEY: AM192 is adopted. Debate is open on LB148 as amended. Seeing no members wishing to speak, Senator Schumacher, you're recognized to close on LB148. [LB148]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Again, LB148 is a product of months of work led by Senators Scheer, Lindstrom, and Williams into an update of

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our securities laws and it hopefully will take us into the future in a way that's consistent with the needs of business and also the revised federal laws that happened over the years. I'd encourage your support of LB148. Thank you. [LB148]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Members, the question before the body is the advance of LB148 to E&R initial. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record please, Mr. Clerk. [LB148]

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB148. [LB148]

PRESIDENT FOLEY: LB148 advances. Next bill, Mr. Clerk. [LB148]

CLERK: Mr. President, LB590, introduced by Senator Crawford. (Read title.) Introduced on January 18, referred to the Urban Affairs Committee, the bill was advanced to General File. There are committee amendments, Mr. President. (AM200, Legislative Journal page 484.) [LB590]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Crawford, you're recognized to open on LB590. [LB590]

SENATOR CRAWFORD: Thank you, Mr. President. And good morning, colleagues. LB590 would amend the state building code to bring occupancy classifications relating to in-home day cares and in-home care into alignment with our current child regulations promulgated by the Department of Health and Human Services. And I want to thank Senator Wayne for making this bill a committee priority. I'm sorry he is not able to be with us this morning, but he talked about how important this bill was, particularly for his district because there are so many in-home day cares in his district and this is such an important part of the community and important part of making sure that families are able to support themselves and make sure their kids are well cared for. And I have talked to some other folks as well who talk about how critical these in-home day cares are as an important part of their communities and the economy in their districts. During the interim, my office heard from building officials from Omaha and Bellevue regarding inconsistencies in our current codes and regulations for in-home day cares. Currently, our

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Department of Health and Human Services regulations on in-home day cares allow residential in-home day care rules for centers with 12 or fewer children. And that is in conflict with occupancy requirements in the state building code currently that state...that sets the line for stricter standards for these facilities at five or fewer children. These building officials were deeply concerned about the challenges these conflicting provisions could create in the community and what it would mean for the future of these licensed in-home day care providers across the state. So LB590 is the result of conversations with various political subdivisions, the Department of Health and Human Services, the Department of Health and Human Services' Child Care Licensing Division, and the State Fire Marshal and it works to address the relevant conflicts between the current state building code and the DHHS regulations to make the requirements for in-home day cares in our state clear and consistent, and consistent with the status quo. The state building code which includes provisions of the 2012 International Building Code was adopted by reference in 2015 through LB540. It's important to note that the state building code only applied to state-owned buildings and buildings in political subdivisions that choose to adopt a state building code. LB590 would amend the applicable sections of the state building code to change the occupancy classifications in Section 301.2.3 (sic: 305.2.3) and 310.5.1 of the 2012 IBC. Both of these sections categorize facilities having five or fewer occupants as a residential occupancy. As a result, facilities having more than five occupancies would get classified at a different level of occupancy under the existing state building code. These alternative levels of occupancy set out by the IBC, such as educational, commercial, or institutional occupancy, generally impose more restrictive code requirements on these facilities. The more restrictive codes could include fire sprinklers. These requirements would put new strict burdens on licensed, in-home day care providers across Nebraska that may put many of these invaluable providers at risk. The current child-care regulations promulgated by the Department of Health and Human Services provide that in-home day cares may maintain a residential classification if they provide care to 12 or fewer children. LB590 changes the residential classification requirement for in-home day care providers in our state building code from 5 or fewer children to 12 or fewer children in order to align the building code in our state with existing DHHS home day care regulations. The other change in LB590 clarifies the ability of state agencies to adopt, promulgate, and enforce rules and regulations in conflict with the state building code when specifically authorized by statute to do so, as we would be doing in LB590. Per Nebraska Revised Statute Section 71-6405: No state agency may adopt, promulgate or

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enforce any rule or regulation in conflict with the state building code unless specifically authorized to do so by statute...authorized by statute to adopt or enforce a building or construction code other than the state building code. LB590 adds language to further clarify that a state agency cannot only adopt or enforce codes in violation with state code when specifically authorized by statute to do so, but also enforce rules and regulations that may be in conflict when specifically authorized. This allows the legislature to decide when a change or exception should be made in how a specific department enforces the state code through their rules and regulations without having to change the state building code statute itself. LB590 will ensure that licensed in-home day cares provide much-needed care and continue to do so under appropriate residential classification. LB590 was passed out of the Urban Affairs Committee with a 7-0 vote and there was no opposition at the hearing. The committee has proposed an emergency clause, AM200, to make sure that we can clarify this issue as quickly as possible. With that, colleagues, I encourage you to vote green on LB590 and AM200. [LB590]

PRESIDENT FOLEY: Thank you, Senator Crawford. As the Clerk indicated, there are amendments from the Urban Affairs Committee. Senator Hansen, as Vice Chair of the committee you're recognized to open on the committee amendments. [LB590]

SENATOR HANSEN: Thank you, Mr. President, and good morning, colleagues. AM200, the Urban Affairs Committee amendment, simply adds the emergency clause to LB590 so the bill would go into effect when signed into law by the Governor. With that, I would urge all of my colleagues to vote green on both AM200 and LB590 so that we can address this issue for in-home day cares quickly. Thank you, Mr. President. [LB590]

PRESIDENT FOLEY: Thank you, Senator Hansen. Members, you've heard the openings on LB590 and AM200. Seeing no members wishing to speak, Senator Hansen, you're recognized to close. He waives close. The question before the body is the adoption of AM200 to LB590. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record please, Mr. Clerk. [LB590]

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB590]



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PRESIDENT FOLEY: The committee amendments are adopted. Debate is open on LB590 as amended. Seeing no members wishing to speak, Senator Crawford, you're recognized to close on LB590. [LB590]

SENATOR CRAWFORD: Thank you, colleagues. And I appreciate your support for this bill and the emergency clause. The emergency clause does require additional votes, so I urge you to stay in the room for a little bit here. If you're running out to a meeting, to vote on this bill before you leave. This is an important issue for our in-home day cares and to make sure that they can continue to function in our communities and provide an invaluable service. So I encourage your vote on LB590. Thank you. [LB590]

PRESIDENT FOLEY: Thank you, Senator Crawford. Members, you've heard the debate on LB590. The question before the body is the advance of the bill to E&R initial. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record please, Mr. Clerk. [LB590]

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of LB590. [LB590]

PRESIDENT FOLEY: LB590 advances. Moving on to the agenda, General File, 2017 senator priority bill. Mr. Clerk. [LB590]

CLERK: LB271 is a bill introduced by Senator Hilgers. (Read title.) Introduced on January 11, referred to the Transportation Committee, advanced to General File. At this time I have no amendments to the bill, Mr. President. [LB271]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Hilgers, you're recognized to open on LB271. [LB271]

SENATOR HILGERS: Thank you, Mr. President. Good morning, colleagues. The bottom line impact of LB271 would be to shave off about a year off the time line for construction of highway projects in Nebraska as well as save upwards of \$19 million in yearly construction contracts...construction costs for those highway projects. The reason it does that is because it

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takes advantage of a bipartisan federal process which was focused on eliminating inefficiencies and redundancies in the application of our federal environmental laws. Before...I want to give a context of what that federal environmental statutory scheme looks like. Before I do, I'd like to thank Senator Suzanne Geist for making this her priority bill for this year. So what I want to do is explain sort of the puzzle in which LB271 fits and then explain what LB271 precisely does. So there is a wide variety of federal statutes that apply to the construction of highway projects here in Nebraska. There are a number of substantive statutes such as the Endangered Species Act or the Clean Water Act or the Clean Air Act, but there's also a statute called NEPA, which stands for National Environmental Policy Act. And NEPA is a decision-making process that helps guide governmental entities in their evaluation of environmental issues as they relate to highway or construction projects, generally including highway construction projects. And this process is very complicated, but I'm going to sort of simplify it at a high level at a 10,000-foot view. Essentially, you can consider NEPA like a decision-making tree. So the first question that the Department of Roads or other entity would ask is, whether or not this project fits into what's called a categorical exclusion. Now, categorical exclusion is something that we see very routinely, something...it's a very simple project. Think of a repaving of a highway. Think of a...Mr. Speaker, can I get a gavel, please? Thank you. So categorical exclusion includes maybe a construction of a rest stop or the like. In other words, it's something we have a pretty good sense of what the environmental impact would be. If there is...if it doesn't fall into that category, then what happens next is what's called an environmental assessment, which is a fairly lengthy process. And that determination is whether or not there will be a significant environmental impact. If there's not, then there's what's called a finding of no significant environmental impact. But if there is, what happens is an environmental impact statement. And an EIS is a very complex procedure that can take anywhere from three to five to seven years and is the decision-making process by which a governmental entity will determine the scope of the environmental impacts. They'll take public input, they'll look at other ways to mitigate any potential environmental impact the project might have and eventually go forward with the project. Now that process as it has worked here in Nebraska is a sort of a dual-agency process from the Federal Highway and the Nebraska Department of Roads. And currently, the Nebraska Department of Roads is the primary agency tasked with the real grunt work behind the environmental assessment. In other words, they have the engineers, the consultants, the experts going out analyzing the project, analyzing the environmental impact and doing all of that work. Now, they

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consult with and get final approval from Federal Highway and so they communicate back and forth over the course of these environmental assessments. So that's been the process. Now, NEPA also has this check on the process. And the check on the process is a way by which a group or a citizen could challenge what was done through the federal court. So the federal government has agreed to a limited waiver of sovereign immunity for someone to go to court and seek equitable relief to force an agency to do something. So in this case what that would be would be, say, the agency was supposed to do an environmental impact statement but they didn't. Someone could go to court and ask the court for an order to force them to do the EIS. So environmental statutes say we should do x, agency did not do x, someone can go to court and get the court to order them to do x. It's not a damages lawsuit, there's not exposure for the federal government from a monetary standpoint, it's just a check on this process to make sure that it's done right. So the scheme is a process and we have a check on the process. The federal government, starting with President George W. Bush and expanded really by President Obama, really focused on an insight into this where we could eliminate some inefficiencies. And I just talked about that process between NDOR and the Federal Highway. Part of that time frame really can't be changed at all. The actual environmental assessment, the engineers going to the site, doing the work, doing the homework, coming with their conclusions, you can't really speed that process up without watering down the environmental laws. But there's another piece of this process which I mentioned earlier, which is the communication between Federal Highway and Nebraska Roads that's actually slightly redundant and actually could be sped up. And that's because every time Nebraska Department of Roads goes in a formal communication to the Federal Highway, Federal Highway has up to 30 days to formally respond. Now, they've been good working partners with the department. There's been no issue there, but even if they took ten days to respond on average, these communications can happen dozens of times over the course of an environmental assessment. So now you've got potentially a year or longer just made up in waiting on Federal Highway to respond. So the federal government's key insight was that, hey, this is sort of dead time. There's a lot of idleness, it ramps up construction costs, it doesn't really add much value. So the federal government in 2012 through the MAP-21 statute said, we're going to allow states to opt into this. And this is Title 23 of the U.S. Code, Sections 326 and 327. And what the federal government said is, as long as we can control the quality of the process and ensure that check on the process still exists, then this could be a win-win-win for everyone. It saves a little federal time and taxpayer dollars on that side, it saves...certainly it will save construction costs, taxpayer

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dollars on the state side, it will speed everything up. This could be a win. So what the statute did to ensure this process works and the check of the process exists is on the process side Federal Highway has a number of safeguards to insure that the state actually applies the federal environmental laws as they should. So what happens is, the state under the statute will enter into a memorandum of understanding with Federal Highway under which all of the...state will agree to follow the environmental laws under which their ability to do so is assessed and controlled. Federal Highway has the ability to terminate that at any time. The typical terms are three to five years and they have complete option to renew or not renew. So if the state is not fulfilling their obligations under the environmental laws they can cease that piece. At the same time, the state, if they feel like they cannot fully take advantage or apply those laws, they can withdraw at any time. So that process, there's a lot of safeguards there. In addition, by the way, there's an audit process. So the Federal Highway will audit the state's ability to apply these laws six times within the first four years of the project. So there's safeguards to make sure the process is in place. The other side of it on the check piece is the federal government has said, okay, states, we'll allow you to take on responsibility; that's a good thing. But at the same time, you have to take on the other side of the coin, which is you have to defend your decisions in court. And so in order to do that the states have to themselves do what the federal government has already done, which is to waive their sovereign immunity on a very limited basis. In other words, it's not a damages case or any lawsuit that could ever come under the sun, it's any lawsuit that I described earlier which is a lawsuit to force the state to do x when they didn't do x. It's not a damages, it's an equitable relief type of suit. So if a state does that and they protect the process and they protect the check on the process, then the federal government will allow them to enter into the MOU and then they can start to take on that responsibility. Now a number of states around the country have done this, including California and Ohio. And those states have reported significant cost savings and a significant reduction of the time to completion of the their projects. Nebraska has been investigating this and wants to be on the leading edge of this trend, determining their capabilities to take on this responsibility and have concluded that if we were to do this we would on average save about a year shaved off the time of completion for our highway construction projects in upwards of \$19 million to \$20 million a year in highway costs. So that's the scheme. For Nebraska to take advantage of that scheme, we have to pass LB271. LB271 has two core pieces. The first piece is authorization to the Department of Roads to enter into this memorandum of understanding. So if that happens, then what will happen is the state will negotiate this MOU

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with the federal government. The second piece is equally critical. And the second piece is this limited waiver of sovereign immunity for the state to have basically its work double checked by the public in case something goes wrong. I will note, on that side, in addition to the lower risk...the fact that there's no damages involved, Nebraska has been doing the primary piece of this work for years, decades. And in our research and the research with the Department of Roads, there hasn't been a lawsuit in Nebraska on this process as far back as we can find, which is about 40 or 50 years. [LB271]

PRESIDENT FOLEY: One minute. [LB271]

SENATOR HILGERS: Thank you, Mr. President. I'm sorry? [LB271]

PRESIDENT FOLEY: That was one minute. [LB271]

SENATOR HILGERS: One minute. Okay, thank you. So LB271 passed out of committee on an 8-0 vote. There were a tremendous amount of support in that committee. There was no opposition to LB271. And again, I thank Senator Suzanne Geist for making it her priority bill. I think it's a common-sense bill in this age of tightened budgets for us to be able to streamline our process, get efficiency, save taxpayer dollars, while still ensuring that we protect the environment as we currently do. Thank you, Mr. President. [LB271]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Members, you heard the opening on LB271. Senator Geist, you're recognized. [LB271]

SENATOR GEIST: Thank you, Mr. Speaker. And I also thank Senator Hilgers for introducing this bill. Even though the explanation is rather complicated, it's really a simplified process. And the reason that I prioritized this bill is because I believe it embodies what most of us like to see in good legislation. And what that is, is streamlining processes and making them more efficient. Ultimately, it saves the state money. It's projected when this process is fully implemented--and that's going to take about 18 months or so from the time we began the process--but it will eventually save the state around \$19 million to \$20 million a year. And that money can be rolled back into continued rebuilding and improving our roads and bridges. And I see that as a win for

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our roads, a win for our budget, and a win for the state. So, again, I appreciate Senator Hilgers for introducing this bill. And if Senator Hilgers would yield to a question, I have a question for him. [LB271]

PRESIDENT FOLEY: Senator Hilgers, will you yield, please? [LB271]

SENATOR HILGERS: Absolutely. [LB271]

SENATOR GEIST: Senator Hilgers, would you just explain to us the difference that this can make if...like give an example of how the process looks right now and should LB271 pass, what the process will look like at that point? [LB271]

SENATOR HILGERS: Sure. So a great example of a project that is impacted by this environmental impact statement I described which is in the minority of cases, the vast majority are in the categorical exclusion side, the EIS would be maybe applicable to the South Beltway in Lincoln. So without LB271 that EIS process could take five, in some cases seven or eight years. And with this, it will still take a while, but we can shave off maybe a year or more. For these longer ones you might be able to do even a little bit more in terms of what you can cut off. So for folks in Lincoln it would make a significant impact on the length of time for projects. But there are a number of projects throughout the state out in greater Nebraska as well as in the Omaha that would benefit from this. [LB271]

SENATOR GEIST: Great. Thank you. So once again, I just wrap up by saying, this is the kind of legislation that we want to look at because in a time where we're having a budget crunch and we're all looking for new ways to save money for the state in a significant way. I would just urge your green light vote as we advance LB271. Thank you. [LB271]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: Thank you, Senator Hilgers and Senator Geist. Senator Briese, you're recognized. [LB271]

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SENATOR BRIESE: Thank you, Mr. President, and good morning, colleagues. I rise today in support of LB271. I applaud Senator Hilgers and the Department of Roads for bringing forth this measure and to Senator Geist for prioritizing this. As Senator Hilgers mentioned, I note that no one testified in opposition to this bill. This bill simply allows us to use taxpayer dollars more efficiently. This measure is consistent with the goal of regulatory reform, but it in no way lessens the protections of NEPA. It simply streamlines the process. It's my understanding that the process, including any environmental analysis, will remain the same but instead of having to wait for time consuming external review the matter is more quickly reviewed internally. The Federal Highway Administration will still provide annual assessments to further ensure the integrity of the process. And as far as the waiver of sovereign immunity, it would seem that the state's exposure is extremely limited there. First, as Senator Hilgers mentioned, environmental litigation over a state highway project is extremely rare. And second, I was unable to find any litigation related to NEPA assumption pursuant to 23 U.S. Code, Section 326 and 327. And third, Section 326 and 327 simply provide for an assumption of the process. Here Senator Hilgers said, the failure to adhere to this review process should only result in injunctive relief, if anything. The greatest exposure might be for legal costs. However, it appears that under Sections 326 and 327 surface transportation block grant program dollars under Section 104(b)(2) could be accessed for legal fees. And although I haven't talked to the Attorney General's Office, I assume some of the cost of defending a suit pursuant to this could possibly be absorbed in their budget. So I don't think the waiver of immunity is a deal breaker here. And I would encourage everyone's support of LB271. Thank you. [LB271]

SPEAKER SCHEER: Thank you, Senator Briese. Seeing no others in the file, Senator Hilgers, you're welcome to close. Senator Hilgers waives closing. The question before us is adoption to advancing LB271 to E&R engrossment. All those in favor vote aye; all those opposed vote nay. Have all voted that wish to? Please record, Mr. Clerk. [LB271]

CLERK: 42 ayes, 0 nays, Mr. President, on the advancement of LB271. [LB271]

SPEAKER SCHEER: LB271 advances to E&R engrossment. Next item, Mr. Clerk. [LB271]

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CLERK: LB207, introduced by Senator Krist. (Read title.) Introduced on January 10, referred to the Executive Board, and advanced to General File. There are committee amendments pending as well as an amendment from Senator Krist. (AM23, Legislative Journal page 368.) [LB207]

SPEAKER SCHEER: Thank you, Mr. Clerk. Senator Krist, you're welcome to open on LB207. [LB207]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues. Good morning, Nebraska. LB207 advanced from the Executive Board on an 8-0 vote with one member absent. At the committee hearing last month, no one testified in opposition of LB207. And I want to thank Chairman Watermeier and the members of the Executive Board for advancing this bill and selecting it as a priority bill for their committee. LB207 clarifies and harmonizes provisions of the Office of the Inspector General of Nebraska Child Welfare or OIG. The bill does a couple of things very clearly. It harmonizes that the OIG does not investigate when a determination is made that a child died or is injured by chance. It clarifies that any legal fees associated with a person being interviewed by the OIG will not be the responsibility of the OIG. Executive Board amendment, AM23, which has my full support, makes this provision crystal clear the OIG will not pay for legal fees of those that they interview. The bill clarifies that a report may not be distributed beyond the particular entity or agency investigated. It clarifies both parties, both public and private agencies, responding to an OIG report may include corrections of factual errors and respond to the recommendations. Private providers are given 30 days instead of 45 days to respond, as opposed to 15 days for a public agency, to the OIG pertaining to an investigative report with any corrections of factual errors and response to recommendations before the report becomes final. And finally, LB207 harmonizes the whistleblower-type language that is also found in statutes pertaining to the Office of the Public Counsel, adding the language to the OIG Act, clarifies the employees shall be held harmless if they give information to the OIG, which helps the system work correctly. Thank you, Mr. President. [LB207]

SPEAKER SCHEER: Thank you, Senator Krist. There is a committee amendment. Senator Watermeier, you're welcome, as Chair of the Exec Committee, to introduce. [LB207]



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SENATOR WATERMEIER: Thank you, Mr. President. Good morning, Nebraska. I offer AM23. Currently, the Inspector General of the Child Welfare can issue a subpoena and compel a person to appear or produce evidence relevant to an inquiry. The committee amendment, AM23, adds language clarifying that the Inspector General's Office will not be responsible for any attorney fees if the person wants to have an attorney present while being questioned. The right to have an attorney present is currently in the IG act. The committee amendment does not change current practice, it just provides clarity in the event the question comes up about legal counsel fees. I would appreciate your support for AM23 and Senator Krist's LB207. Thank you, Mr. President. [LB207]

SPEAKER SCHEER: Thank you, Senator Watermeier. Seeing no one in the queue to speak to the amendment, Senator Watermeier waives closing. The question before us is the adoption of AM23 to LB207. All those in favor vote aye; all those opposed vote nay. Have all voted who wish to? Please record, Mr. Clerk. [LB207]

ASSISTANT CLERK: 38 ayes, 0 nays on the adoption of the committee amendments, Mr. President. [LB207]

SPEAKER SCHEER: The amendment is adopted. [LB207]

ASSISTANT CLERK: Mr. President, Senator Krist would offer AM507. (Legislative Journal page 635.) [LB207]

SPEAKER SCHEER: Senator Krist, you're welcome to open on AM507. [LB207]

SENATOR KRIST: Thank you, Mr. President. AM507 amends the provisions of LB6 into LB207. LB6 also deals with the Inspector General of Child Welfare and was heard by the Executive Board. LB6 was advanced to the General File with 8 affirmative and 1 absent. No one testified in opposition to the bill at the committee hearing. LB6 authorizes the Inspector General of Child Welfare to release a public summarized final report of an investigation when the IG, the Chair of the Health and Human Services Committee, and the Chair of the Judiciary Committee determine that doing so is in the public's best interest. Currently, the IG can only publicly release

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a summary of a completed report and investigation once per year. Let me tell you how important this is. When there are issues that are affecting our children and we see a trend that would lead us to believe that there is child sexual abuse in some areas or some concerns, the IG can bring it to our attention with the concurrence of the Chair of Health and Human Services and the Chair of the Judiciary Committee so we can solve the issue immediately and not wait for the yearly report. AM507 also incorporates the Executive Board's proposed committee amendment, which clarifies specifically the summarized final report may be released only after the disclosure is made to the appropriate chairperson and determination is made by the chairpersons and the Inspector General that the release is in the best interest of the public. I want to thank Janice Satra of the Executive Board and Julie Rogers for bringing this forward. Initially, colleagues, LB6 would have had an emergency clause on it. And depending upon the vote that I see today, we may put that emergency clause back on when it comes to Select. The reason for that is the Inspector General is currently working on some pretty crucial issues and she expects to have those results by the end of March. And with the E clause she could put that report out when she actually has that data in a timely manner. But let's just see how this vote goes today and then my intent would be to put the E clause on Select File. I ask for your support of AM507 and ultimately a green on LB207. Thank you. [LB207]

SPEAKER SCHEER: Thank you, Senator Krist. Seeing no one wishing to speak, Senator Krist waives closing on AM507. The question before us is the adoption of AM507. All those in favor vote aye; all those opposed vote nay. Have all those voted that wish? Please record, Mr. Clerk. [LB207]

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of Senator Krist's amendment. [LB207]

SPEAKER SCHEER: And AM507 is adopted. Moving back to LB207. Senator Krist, you are welcome to close. [LB207]

SENATOR KRIST: Thank you. I will take just a few minutes to close on LB207 because of how very important I believe the subject matter is and compliment once again our IG, Julie Rogers, for the work that she has done and the constant vigilance she pays to the health and safety of our children. Again, thank you, Senator Watermeier, for prioritizing the bill on the Exec Board and

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to Janice Satra for putting it together and putting the amendment on in place. This is a position long term. Those of you who will outlive me in this body need to make sure that that position, the OIG, and Child Family Services is there for you long term, regardless of what your financial situation is. And I ask for your green vote on LB207. [LB207]

SPEAKER SCHEER: Thank you, Senator Krist. The question before us is adoption of LB207. All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk. [LB207]

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB207. [LB207]

SPEAKER SCHEER: LB207 advances to E&R for engrossment. Next item, Mr. Clerk. [LB207]

CLERK: Mr. President, if I may read some items. Reference report referring LR71 to standing committee for public hearing purposes. Business and Labor reports LB420 to General File with amendments; an amendment to be printed by Senator Smith to LB233 and a hearing notice with respect to public hearing on that amendment. (Legislative Journal page 771.) [LB420 LB233]

Mr. President, the next bill is LB335, introduced by Senator Krist. (Read title.) Introduced on January 12, referred to the Health and Human Services Committee for public hearing, the bill was advanced to General File. No committee amendments. Senator Krist does have an amendment to the bill, Mr. President. (AM703, Legislative Journal page 772.) [LB335]

SPEAKER SCHEER: Thank you, Mr. Clerk. Senator Riepe, you're welcome to open. Excuse me, for what purpose do you rise, Senator Krist? [LB335]

SENATOR KRIST: Just to set the record straight, this bill was introduced on behalf of the Governor by Senator Riepe. You read it that I introduced it. I just want to make the record clear. [LB335]

CLERK: Senator, you're absolutely right. Forgive me, Senator Krist. Senator Riepe, the bill is introduced by the Speaker at the request of the Governor. [LB335]

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SPEAKER SCHEER: Senator Riepe, you are welcome to introduce. [LB335]

SENATOR RIEPE: Thank you, Mr. President. Good morning, colleagues. I appear before you today as Chairman of the Health and Human Services Committee to present LB335, the first budget modification bill introduced at the request of the Governor. First, I would like to talk about the action of the legislation. Second, I would like to talk about the fiscal note. And finally, I would like to talk about the fiscal implications of LB335. LB335 eliminates the implementation of rate changes in 2017 for child-care providers as a result of a Child Care Development Market Rate Survey. The Child Care Market Rate Survey (sic: Child Care Development Market Rate Survey) is a federally required survey to determine what the current market rate is for childcare in Nebraska. Current state statute requires the department to adjust reimbursement rates every odd-numbered year and is to be based upon the market rate survey. The 2017 market rate survey is being completed by the University of Nebraska here in Lincoln and we should have the final report of the survey later on this month. Now that I have explained what the bill does, I will turn to the fiscal notes. And I note that those are plural, those are two notes. You will notify there are two fiscal notes and the legislative fiscal note differs significantly from the department's fiscal note. The department anticipated it would not have to raise reimbursement rates until July 1, 2019, and used numbers based on the average of historical increases. The first legislative note originally only showed a cost avoidance in fiscal year 2017-18, as Fiscal believed rates would need to be changed July 1, 2018, to be federally compliant. After reviewing this legislation with the federal Administration for Children and Families, it was determined the cost avoidance will be allowed through the first quarter of FY '18-19. After the first quarter reimbursements, rates will need to be reviewed to be in compliance and it is my understanding the Appropriations Committee will appropriate funds for the rate adjustment in October 2018. The reason for this change in the fiscal note is due to the new federal Child Care Regulations, which take effect on October 1, 2018. This is important. The department fiscal and the legislative fiscal notes are in agreement at this time with the new fiscal note. Finally, I would like to address the fiscal implications of moving forward with LB335. Affordable care is vital to allow families to work. The Child Care Subsidy Program is a good program which provides assistance to low-income families. The program only works if child-care facilities are able to accept children that receive this subsidy. Currently, there are over 18,000 participants receiving the subsidies and almost 3,000 providers accept subsidy payments, of which approximately 1,500 are licensed providers

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impacted by the market rate survey and its changes. There has never been a wait list and families seeking providers who accept these subsidies are available. LB335 is the first opportunity for this body to discuss modifications to the budget before we discuss the actual budget. This is a difficult session as we approach the upcoming budget. It is not going to be easy, but it is our constitutional duty to balance the budget. Therefore, I ask you to vote green on LB335. Thank you. [LB335]

SPEAKER SCHEER: Thank you, Senator Riepe. Mr. Clerk. [LB335]

CLERK: Mr. President, Senator Krist would move to amend, AM703. [LB335]

SPEAKER SCHEER: Senator Krist, you're welcome to open on AM703. [LB335]

SENATOR KRIST: Thank you, Mr. President. And I apologize, Mr. Clerk. I would never want to correct you, but I didn't want to take credit for something that I didn't do. Colleagues, I want to draw particular attention to LB335. Having been here for a while and watched some of the things that have happened, Senator Campbell in her very intelligent way put a ceiling and a floor on the rate based upon the market analysis in the last few years. That floor was at 60 percentile, the ceiling was 75 percentile. What this bill does is remove any of those parameters. Reasonably, we're asking providers who are out there, who, by the way, are already subsidizing subsidies for childcare, not knowing what it's going to be and the potential for an arbitrary number to be set below the 60th percentile. It has always historically been correct that we have been at the low end of paying our providers and this is no exception. So by what AM703 does is it says for this year--which by the way, Senator Riepe told you that the market analysis is done in odd years, so every other year--this is the every other year and therefore that market analysis that they are figuring out right now will establish where that rate should be. What the amendment does is it says whatever that was, whatever is truly figured at the market analysis, we cannot pay any less than the 50th percentile. Pretty clear. I'm trying to protect those providers who are out there in this very critical area. One of the things that we heard, you all have heard in Health and Human Services for years, I heard when I was on that committee is, I can't afford my childcare, therefore I can't work. And if I take a raise my child-care subsidy goes away. And those intertangling programs out there help to keep people in the child-care system that need to be there. Think

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about the young mother, the single mother, or even the working family that need child-care subsidy in order to go on earning money. If one of them has to stay home it's less taxes being paid to the state of Nebraska. So if you want to take the fiscal conservative issue and say, where do we want those parents to be? We want them in the workplace, but we want their children taken care of properly. And this child-care subsidy is extremely important. Going below the 50th percentile, in my opinion, jeopardizes those programs that are out there. And that's the last thing I think we need to do. You heard Senator Riepe also say that the Appropriations Committee is going to have to appropriate money in the next year to stay where they need to be. So that is a comfort to me to know that the Appropriations Committee will respond in the second year of this biennium with the appropriate amount of appropriations, but that does not safeguard us in this particular year. This amendment is critical to the success of the programs as well as cutting our budget. It will cut our budget. It will cut our budget. But the 50th percentile will allow us to set a floor whereby we will not take those people in jeopardy any further than that point. I hope we have a good discussion on LB335. I think that every time we get into a budget discussion, every time I've gotten into a budget discussion in trying to keep the line down, most times we tend to look at those people who cannot advocate for themselves or those social service programs, thinking that we don't have to provide those programs. But if you look at the interconnectivity between childcare and people working and taxes coming into the state and revenue coming into the state, I don't know how you can argue that this isn't a fiscally responsible way to continue the program, continue people working, and still care for our children in the way that we should. Thank you, Madam President. [LB335]

SENATOR CRAIGHEAD PRESIDING

SENATOR CRAIGHEAD: Thank you, Senator Krist. (Visitors introduced.) Senator Stinner, you are recognized. [LB335]

SENATOR STINNER: Thank you, Madam Chairman. LB335 actually is part of a group of bills that need to come together to form the final product, which is the budget. So I stand in support of LB335 and also I agree with Senator Krist putting a floor back on this to make sure that the providers have adequate protections. Just to kind of walk through what has to come together for the budget, we have LB409, which is Senator Groene's bill. Senator Groene's bill right now is in

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the Education Committee and it deals with the modification of TEEOSA. Now if you remember, TEEOSA is one our biggest...the biggest budget item, and that needs to come to the floor and get passed in its modified form in order to be counted in the budget. LB233 was introduced by Senator Smith, prioritized by myself and that deals with three or four items that looks at revenue from a credit standpoint. And really, for an example, angel tax credit is in there, and so for a period of two years we are going to discontinue or freeze those at zero to allow some revenue recognition to flow into the budget. HHS, of course, has several bills that they are trying to deal with. And, as Senator Krist noted, that LB335 actually holds the line on spending as opposed to maybe a cut that you would normally think, but as you move forward in the biennium by holding it level as opposed to a scheduled increase, it does help that process. And I know that there is access issues and those access issues really have to do with legislative intent and has to do with the spirit of the law. And I know that there is a lot smarter people, more from the lawyer side of things, that can address that. It's far above my pay grade, but I will say a couple things that we should consider as part of the decision-making process. One is, is that the providers do face an increase in the minimum wage, so there is the economic side of this thing to be considered. I think, too, that for the two years I was here in the Legislature we talked about quality of childcare and making sure that...and it really kind of ties into that early childhood development from zero to eight. And I think there's plenty of literature that's been written on that. We have passed some legislation to try to enhance quality...the quality of childcare. That's an issue. And of course then we talk about the availability of the work force and that's directly related, probably, to what we can pay to get qualified people. So those would be decision points in my mind as I start to work through this bill. Then I come back to where I have to set my satchel down and say, we just don't have any more money. If we can just freeze this, move it forward and try to keep the providers in as good a shape as we possibly can till we have some kind of an abatement on this revenue shortfall, that would probably be helpful to the providers. So I do support LB335. I also support the Krist amendment. And I would encourage everyone to vote green. Thank you. [LB335]

SENATOR CRAIGHEAD: Thank you, Senator Stinner. Senator Blood, you are recognized.  
[LB335]

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SENATOR BLOOD: Thank you, Madam President. Fellow Senators, friends all, I rise in support of AM703 and offer concerns in reference to LB335. I know we have serious concerns when it comes to the budget and I respect the work that's been done on it and the kind words that were said in reference to why childcare is so important here in Nebraska. But with that said, I think we're missing a few points. And the point that I always like to make is that we're not talking about a lump of money we're talking about people. And with that, I would ask if Senator Riepe would yield to a question. [LB335]

SENATOR CRAIGHEAD: Senator Riepe, will you yield? [LB335]

SENATOR RIEPE: Yes, I will. [LB335]

SENATOR BLOOD: Senator Riepe, would you say that Nebraska...that childcare is an economic priority? [LB335]

SENATOR RIEPE: Well, it is an economic priority, but we also have the priority that we have to have a constitutional balanced budget, so we have to find some opportunities where we are not putting us...this is a piece where we feel the rates are sufficient that we can avoid one year of changing those rates out. A \$7 million number, we can't afford. [LB335]

SENATOR BLOOD: Would you say--and I would accept that--but would you say that childcare is one of the best investments that maybe we could make in the Nebraska economy? [LB335]

SENATOR RIEPE: Well, you know, I came from 15 years in the administration at Children's Hospital and am a grandfather, so, like the rest of us in here, I think our children are our legacies for the future, they're our immortality, and they are important. I don't think that we're...we're not challenging that. [LB335]

SENATOR BLOOD: So if I were to ask you the question of what work force has lower pay even than fast food workers, what do you think that answer would be? [LB335]



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SENATOR RIEPE: I'd like to say farm workers, because of some of the farmers and ranchers here. But of course, you know I had accountability for running child-care centers with Children's Hospital and I know how incredibly low paid they are. I don't argue with that. [LB335]

SENATOR BLOOD: Indeed. And the point that I like to make when it comes to child-care workers, to build on what's already been said by several of my esteemed colleagues, is that these providers aren't baby-sitters. [LB335]

SENATOR RIEPE: I agree. [LB335]

SENATOR BLOOD: What's the difference between a child-care worker and a baby-sitter? [LB335]

SENATOR RIEPE: I agree. They're not...they need to be developmentally...children, as you know, learn what they live and so what they're learning every day in a child-care center, it's very important...and safety. [LB335]

SENATOR BLOOD: And they embrace our children. They embrace our children and help them grow and prepare for the world. Would you say that's a pretty good description of what child-care workers do? And when we talk about these lower income families, one of the things that we forgot to mention is that these are also foster children who definitely need access to these facilities. My concern when we talk about reducing this, even temporarily, is that what protocol are we starting? What foundation are we setting? I think we go down a dangerous path. The thing that I've noticed as I listened to some of the adjustments being made in reference to the budget is that there seems to be lump sums of money that people see and they neglect to see the people that those lump sums of money are affecting. So, with that said, do you feel that the protocol, Senator Riepe--and this is my last question--is a good protocol when they survey every other year and use that information to adjust this funding? [LB335]

SENATOR CRAIGHEAD: One minute. [LB335]

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SENATOR RIEPE: Thank you. The federal government requires that we conduct a survey every three years. We do it every two years because of our biennium budget. I think it's a good approach. I think the credibility of the University of Nebraska at Lincoln is a good source; I like the fact that it's local. And I would also like to comment that there's never been a waiting list for families seeking providers who accept the subsidies. So that by acceptance, it's not as if we have child-care centers that are rejecting the subsidy and therefore the children are going onto waiting lists and we have a back-up problem. [LB335]

SENATOR BLOOD: Right. But we could set perhaps a dangerous precedent by wading into this water. Thank you, Senator. [LB335]

SENATOR RIEPE: Thank you. [LB335]

SENATOR BLOOD: Thank you, Madam President. [LB335]

SENATOR CRAIGHEAD: Thank you, Senator Blood and Senator Riepe. Senator Bolz, you are recognized. [LB335]

SENATOR BOLZ: Thank you, Madam President. I just wanted to make a brief comment on the floor which is, while I'm supportive of LB335 and AM703, we have to be cautious about this kind of approach. This is the kind of approach that only is appropriate in a deficit budget year. It is really important that we keep up with rate adequacy for all kinds of service providers. If we erode the rates that we are paying service providers, we will pay for them in the future. And so I support this bill, I support the strategy to slow down our rate increases for child-care providers this year while recognizing the federal rules that will be put into place in 2018 regarding access and the necessary rate structure that will need to come along with that, but I want the body to note that we cannot get into the habit of underfunding rates, whether it's Medicaid rates or child-care provider rates or any other type of rates as a budget-balancing mechanism. We have to be fair to our service providers and our systems and we have to create truth in budgeting. Thank you, Madam President. [LB335]

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SENATOR CRAIGHEAD: Thank you, Senator Bolz. Senator McCollister, you are recognized. [LB335]

SENATOR McCOLLISTER: Thank you, Madam President, and good morning, colleagues. I respect the comments of Senator Bolz and I think that explains my position with regard to this bill. To that end, I would ask Senator Riepe to answer a few questions. [LB335]

SENATOR CRAIGHEAD: Senator Riepe, would you yield? [LB335]

SENATOR RIEPE: Yes, I will. [LB335]

SENATOR McCOLLISTER: You indicated that there is a formula that has been in place for a number of years that determines how we compensate providers. Can you explain that to some extent? [LB335]

SENATOR RIEPE: Well, every two years we do do a market survey to make sure that...and this falls under the...there's a rule that's called the access rule. The access rule's intent is to make sure that we are providing equal...it's an equalization thing between the parents that can afford to buy childcare and those that cannot, so that we aren't having two categories of childcare, one for less fortunate people and then those that can afford it. The formula is basically set by the federal government and we have to comply with that on a regular basis in order to receive funds from them. [LB335]

SENATOR McCOLLISTER: And we've determined that formula by using the University of Nebraska-Lincoln? [LB335]

SENATOR RIEPE: The University of Nebraska-Lincoln is the organization we need to pull in to find out what competitive rates are. The formula itself is set by the federal government that we have to live by. [LB335]

SENATOR McCOLLISTER: You indicated in your...the fiscal note indicated a major savings over the biennium. Can you give us that amount? [LB335]

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SENATOR RIEPE: I would say it's not a savings. It's a cost avoidance, Senator. And that number in the first fiscal year is \$7.4 million and the second I believe it's \$1.8 million. I have those numbers. [LB335]

SENATOR McCOLLISTER: So what I hear you saying is that otherwise, without this bill, state government would be spending another almost \$7.5 million in the next year, correct? [LB335]

SENATOR RIEPE: That is our projection. [LB335]

SENATOR McCOLLISTER: Okay. Thank you, Senator Riepe. [LB335]

SENATOR RIEPE: Thank you. [LB335]

SENATOR McCOLLISTER: I'd like to mention a few statistics for us. According to national KIDS COUNT report, the number of children in Nebraska living in extreme poverty--which is less than 50 percent of the federal poverty rate--increased from 31,000 to 35,000 in 2015. While impoverished parents are in vocational training school or working, quality childcare can be accessed through child-care payments made directly to a child-care provider. This is an essential support for parents and their children as they try to get off public assistance. Without a competitive payment structure that recognizes increasing costs for providing care, the availability of quality care for these parents who are trying to get off public assistance, will decrease as providers increase their mix of private-pay families in order to meet operating expenses. LB335 will result in the inevitable decrease in the supply of quality affordable childcare for families trying to free themselves of welfare payments...programs while the number of Nebraska children living in poverty continues to increase. According to the First Five Nebraska, LB335 offers very limited and nonsustainable savings to the state, and potentially at long-term cost to Nebraska children and taxpayers by making it more difficult for providers to deliver quality care and learning opportunities to children at risk. This bill does not reflect the Legislature's longstanding strategic commitments to ensuring more young Nebraskans are better prepared to succeed in school and beyond. I also recognize that... [LB335]

SENATOR CRAIGHEAD: One minute. [LB335]

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SENATOR McCOLLISTER: ...the budget constraints make it difficult for us to fully fund childcare as we have in previous years. Perhaps LB335 and the amendment, AM703, which I support, is the only thing we can do at this point. But we need to recognize our commitment to these children in Nebraska. It's either pay me now or pay me later and that's the situation we face. And we have often been shortsighted in our view of things and lived to regret it. Thank you, Madam President. [LB335]

SENATOR CRAIGHEAD: Thank you, Senators McCollister and Riepe. Senator Morfeld, you are recognized. [LB335]

SENATOR MORFELD: Thank you, Madam President. Would Senator Riepe yield to a question, please? [LB335]

SENATOR CRAIGHEAD: Senator Riepe, will you yield? [LB335]

SENATOR RIEPE: I would love to. [LB335]

SENATOR MORFELD: Senator Riepe, if I heard you correctly, you stated that we are going to, quote, leave rates as they are. Is that correct? [LB335]

SENATOR RIEPE: That is correct. [LB335]

SENATOR MORFELD: Where in the bill--and I read it--where in the bill does it state that we are going to freeze rates? [LB335]

SENATOR RIEPE: The word "freeze" is not in the...that language is not in there per se. Without going in and finding the exact line, fundamentally what it is saying is we will leave the rates as they are until the next year. [LB335]

SENATOR MORFELD: Okay, well, I would just like to put on the record, Senator Riepe, that after looking at the bill I see no indication that we are going to leave rates as they are. So perhaps once you get off the mike we can talk, but I don't see anything in the legislation that freezes the

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rates in terms of leaving them as they are as stated on the mike. Thank you, Senator Riepe.  
[LB335]

SENATOR RIEPE: Thank you. [LB335]

SENATOR MORFELD: Colleagues, I rise in support of AM703 as proposed by Senator Krist, but strongly opposed to LB335. I find it interesting that we are talking about essentially cutting funding, and I know that by leaving it as it is, some would argue that we are maintaining status quo. But I see it as a cut being as though these programs are already underfunded as they are, they don't have enough resources or enough providers. I would like to also note that Senator Riepe stated on the record that there is no waiting list for these programs. When I've talked to providers and, in fact, that's not true, there are waiting lists for these type of programs. And if we think for a minute that we are going...if the pathway to getting out of this downturn in our economy and in our revenue streams is going to be borne on the back of working Nebraskans by making it harder for them to work and then generate revenue for the state, we are sorely mistaken. It is misguided. So meanwhile, we're talking about essentially, in my view, cutting services for lower-income working families, but then there's still a debate on this floor about cutting taxes during a severe revenue downturn. It makes no sense. It's ludicrous. It's not good business sense, it's not good policy. And LB335 is certainly not good policy and it's certainly not going to lead to us getting out of this recession in our state. I am strongly opposed to it. And I'll tell you that my father, when he was in the Marine Corps, his wife, my step-mother, had to make the decision of whether or not she was going to work or stay home with the kids because by the time she got done paying for childcare she wasn't making enough to cover it. So when we make these decisions, we are making decisions whether or not working families, particularly women--who I would like to note in our society get paid a lot less than men for the same job--whether or not they can go to work and can be contributing members of our society, which has implications in terms of taxes and revenue for this state. I understand the desire to make certain cuts and save costs in certain areas, but I don't understand that desire when it's borne on the back of working Nebraskans and then we're still talking about tax cuts for other people in a severe revenue downturn. It makes no sense. I will oppose LB335, but I will support AM705. Thank you, Madam President. [LB335]

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SENATOR CRAIGHEAD: Thank you, Senators Morfeld and Riepe. Senator Williams, you are recognized. [LB335]

SENATOR WILLIAMS: Thank you, Madam President. And good morning, colleagues, and good morning, Nebraska. We are faced with making tough choices in this Legislature. I think we all know that. That's why we're here. Are they fun choices to make? No, they're not fun choices to make. I serve on HHS and I was one of the committee members that voted LB335 out of committee. And with the Krist amendment I will still support LB335. Do I feel good about that? Not necessarily. But are we in a position of having to find ways to share the responsibility and share the pain, so to speak, as we go down this, which is tough choices. My concern with LB335 without the Krist amendment is it could lead to a situation where DED could actually lower the rates from what they currently are providing to these providers. These providers are important. People being able to use subsidized childcare is important, because these people are choosing to work. And for those of us that have kids and grandkids and recognizing how expensive childcare is, it's a major concern. I've been contacted by a number of the YMCAs in my area that already are subsidizing membership and now are looking at subsidizing a little bit further. They're not pleased with this. But they also understand that there is a level of pain to be shared. I often have to remind myself that we can never let politics or party erode our empathy. That is part of our responsibility here. Sometimes it gets real easy with the dollars. I encourage us all to consider the compromises that are necessary to meet our constitutional requirement of balancing our budget. And doing that means making these tough choices. With that, I support the Krist amendment, AM703, and with that amendment will support LB335. Thank you, Madam President. [LB335]

SENATOR CRAIGHEAD: Thank you, Senator Williams. Senator Howard, you are recognized. [LB335]

SENATOR HOWARD: Thank you, Madam President. I rise in support of the Krist amendment, but I will maintain my "no" vote for LB335. Philosophically, I don't feel as though we should be filling our budget shortfall on the backs of childcare providers who are already not receiving the market rate. The market rate in Nebraska is what we set. We do a market rate study every three years, in accordance with our CMS law or our CMS regulations. And when we do that market

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rate, we have to adjust our childcare rates. In statute, our childcare rates can't go above 75 percent of the market rate, but they also can't go below 60 percent of the market rate. And what the department has asked us to do is say, in 2017, this year we're going to ignore that market rate floor of 60 percent and we're going to say it's okay this year to go below that 60 percent that we've set in statute. The Krist amendment gives us another floor. It says that they can't below 50 percent of the market rate. Setting aside all of the issues with allowing our childcare providers to only get 50 percent of the market rate, the Krist amendment gives us some safeguards. Now what's concerning about this bill over all is that in October of 2018 we will have some new, fun regulations from CMS, and those regulations require that every child that is eligible for a Child Care Subsidy has to be able to access a childcare provider who will take that subsidy. If we allow rates to go lower in the months leading up to 2018, and we see childcare providers start to drop off, we will not be able to assure that access for those children. If we can't assure that access, we have to return \$30 million of our Child Care Subsidy. And so with that, if Senator Stinner is in the room...okay. Is any member of the Appropriations Committee here? Senator Wishart, would you yield to a question? [LB335]

SENATOR WISHART: Yes, I will. [LB335]

SENATOR HOWARD: So what I'm looking for is an assurance that by October of 2018 we'll get these rates back up to where they need to be so that we can ensure access and not get another, yet another fine from the federal government because we made a mistake in our Department of Health and Human Services. Have you discussed the Child Care Subsidy? Have you discussed increasing those rates? [LB335]

SENATOR WISHART: So I have briefly discussed this with Senator Stinner. I am only one member of the Appropriations Committee, but I feel confident that our committee, as we've proven in the work we've done to support providers even in this tough budget time, will be able to get there. [LB335]

SENATOR HOWARD: Thank you, Senator Wishart. Would Senator Bolz yield to a question? [LB335]



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SENATOR BOLZ: Yes. [LB335]

SENATOR CRAIGHEAD: Senator Bolz, will you yield? [LB335]

SENATOR BOLZ: Yes. [LB335]

SENATOR HOWARD: Thank you, Senator Bolz. I know you were coming in right then, but what I'm looking for is an assurance that our childcare rates will go back up to at least 60 percent so that we can prove access to CMS or to the federal government when we are...when the October 2018 regulations go into effect. [LB335]

SENATOR BOLZ: Sure. It's my intention to work with the committee members and the Chairman to ensure that that occurs. What we'll need to do is for this year, assuming LB335 moves forward, we'll be able to keep this year's childcare spending flat. Next year we will need in our budget to put in about \$5 million to ensure that we meet the access criteria, based on the federal requirements. And not only will we need the support of all the Appropriations Committee members to move that forward in committee; we'll need the support of all of you on the floor, so that just as Senator Howard says, we're not only taking care of the childcare providers in the state but we are also ensuring that we do not accrue another, yet another federal fine. [LB335]

SENATOR CRAIGHEAD: One minute. [LB335]

SENATOR HOWARD: Thank you, Senator Bolz. Senator Stinner, would you yield to a question? [LB335]

SENATOR CRAIGHEAD: Senator Stinner, will you yield? [LB335]

SENATOR STINNER: Yes. [LB335]

SENATOR HOWARD: Senator Stinner, can you tell me a little bit about what happens when we receive a fine or when we have to return funds to the federal government through our Health and Human Services division errors? [LB335]

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SENATOR STINNER: Well, it's obvious. If we have a clawback, is what you're referring to, or a fine, we have to figure out how to pay it. [LB335]

SENATOR HOWARD: And that's considerably more expensive than just leaving the rates where they're at. Is that correct? [LB335]

SENATOR STINNER: That would be considerably more expensive. [LB335]

SENATOR HOWARD: Thank you, Senator Stinner. I maintain my opposition to LB335 on philosophical grounds. With if we can get the Krist amendment with the floor, maybe it will be okay, but "maybe" is a question when \$30 million is on the line. And so with that, thank you, Madam President. [LB335]

SENATOR CRAIGHEAD: Time, Senators. Thank you, Senator Howard, Senator Wishart, Senator Bolz, and Senator Stinner. Senator Crawford, you are recognized. [LB335]

SENATOR CRAWFORD: Thank you, Madam President. I rise in support of AM703. I'm on the Health and Human Services Committee. I did not vote in support of LB335. I think there are several concerns that have already been raised, but to reinforce some of those concerns, one fundamental concern that is absolutely critical before we even consider moving forward on LB335 is to make sure that we have appropriate guardrails in place, and that is why AM703 is absolutely critical. It's absolutely critical that we pass AM703 before we decide...as we decide whether or not to move forward with LB335. LB335, as currently written, as has been noted by several speakers on the floor, LB335 as currently written does not require that those rates are frozen or at least stay the same. LB335 also does not allow attention to changes in the market rate at all. So LB335 simply says we are not going to update those rates in the manner that we usually do every other year. AM703 clarifies, okay, we've decided we're not going to update them as we usually do, but we're going to make sure that no one gets a lower rate, and we're going to make sure we're at least staying at the 50 percent market rate, which is below the standard we usually set at 60 (percent) but is setting a floor to make sure that we're being attentive to, again, make sure the rates don't go backwards or make sure that our floor does not fall below that 50 percent mark. Now, as another important piece of...so AM703 is absolutely

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critical. As we move forward with...if we adopt AM703, as we move forward in considering LB335, important considerations are that we do need to be compliant with federal law, and we need to make sure that we are actually providing rates that ensure that we will have day-care providers. This is a fundamentally critical piece of our economy, a fundamental, critical piece for families to be able to take care of themselves, a fundamental, critical piece for us to have a work force, but more important than anything else it's a fundamental, critical part of our state investment to make sure that our kids are safe and cared for. We've worked very hard to try to improve quality of our childcare system, improve quality standards. We've worked very hard to invest in early childhood education. And, colleagues, investment in these childcare subsidies is a critical piece of our investment in our children. And we've talked over and over again on this floor about how critical that early childhood investment is. And that's why LB335 is, you know, is a hard choice to make if we are to decide to make that choice, because, really, we are balancing the budget against a principle that we've been maintaining, which is a key principle of trying to make sure we're protecting those investments in our children and early childhood education. So, colleagues, wherever you are leaning on LB335, I just want to emphasize it's absolutely critical that we pass AM703. That's absolutely critical guardrails to put on this bill, should it pass. It's critical that we have those protections in place, not... [LB335]

SENATOR CRAIGHEAD: One minute. [LB335]

SENATOR CRAWFORD: ...only for our kids, but it's also critical that we put those protections in place because that will make it easier when we get to next year when we actually...when we have to make sure that we're putting those investments in, to make sure that we're compliant, to ensure we meet minimal federal compliance requirements in terms of access and rates. And that's another issue in this debate, is we are going to need to come in and bring these rates right back up again. And that's an important part of this debate as well, when we're doing this, if we pass LB335, we still will be coming back to push those rates back up again to be compliant with federal law and compliant with our statute that says we're trying to keep these rates more competitive. So we will be coming to put these rates back up again if we do decide to... [LB335]

SENATOR CRAIGHEAD: Time, Senator. [LB335]

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SENATOR CRAWFORD: ...hold the line with LB335. Thank you, Madam President. [LB335]

SENATOR CRAIGHEAD: Thank you, Senator Crawford. Senator Riepe, you are recognized.  
[LB335]

SENATOR RIEPE: Thank you, Madam Chairman and members of this group. I simply wanted to say that I think we're getting the cart ahead of the horse here. We have a survey that will be coming in from the University of Nebraska at Lincoln at the end of the month. I do not oppose AM703 in Select File; I do oppose it in General File. First, find out what the rates are, then to come back, if we need to, go into Select File and to then make the adjustment. I think that that's the only sensible way to approach this problem. Thank you. [LB335]

SENATOR CRAIGHEAD: Thank you, Senator Riepe. Senator Hansen, you are recognized.  
[LB335]

SENATOR HANSEN: Thank you, Madam President. I rise today in support of the Krist amendment, AM703. As I've been trying to work through this issue and understand more and more, it does seem like the pertinent policy of the Legislature is to ensure that there is some sort of minimum standard we've met. Others before me on the microphone have gotten up and explained the good rationale for why we have the Child Care Market Rate Survey and why we have...and the legacy in the past. Senator Campbell introduced both the ceiling and a floor. The fact that LB335 was trending into an area where there was no floor is of great concern. So I think I would have to disagree with Senator Riepe, and I think AM703 is needed regardless of what that survey comes out. I don't know what numbers in that survey could show that would make AM703 unwise policy or unnecessary, which I think he even alluded to when he said he'd support it on Select File. I'm not sure what the delay in vote would necessarily mean, but I hope we do adopt AM703 today. And I just wanted to rise and be another one of the people addressing kind of the overall issues facing our budget and facing the state at the moment. If this is a situation where, in order to save \$7 million this year, we're spending a considerable amount of political capital, this is a committee priority bill, those are limited and rare and significant political capital of Chairs. The Governor asked for this to be introduced, so on, so on, so on, that we're in such dire shape that we're going to claw out \$7 million from childcare, well, when

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there's going to be other expenditures or other reductions in revenue coming later in the year, that's going to be something we're going to have to put a pretty keen eye on and make sure that that's best representing the state of Nebraska in terms of our overall climate. I'm appreciative of the people who have worked on this issue and of people, especially Senator Stinner and the Appropriations Committee, who is, if I understand his comments right, view this as part of an overall package to fix the budget, and if that's the case, that's the case. And you know, I'm interested in listening and learning more on the issue. But if our budget situation is this dire, if when we're talking about the revenue side I'm going to be really questioning how all these pieces are coming together and whether or not the working families in my district are the people who are going to be looked out for the Nebraska Legislature. I can tell you they're going to be looked out for by me. Be interested to see what the rest of the body does. Thank you, Mr. President...Madam President. Excuse me. [LB335]

SENATOR CRAIGHEAD: Thank you, Senator Hansen. Senator Wishart, you are recognized. [LB335]

SENATOR WISHART: Thank you, Mrs. President. I rise today in support of AM703, and I want to thank Senator Krist for bringing this amendment. I also want to thank my Appropriations Committee teammates because we have done really good work in supporting providers during this tough budget climate, especially those providers who serve the most vulnerable citizens in our state, such as people with developmental disabilities, senior citizens, and, in this case, children. According to the Annie E. Casey Foundation Kids Count report, about 23 percent of Nebraska families are low-income working families with children. We can even track the percentage of children in poverty down to the county. In my county, Lancaster County, for example, in 2014 the percentage of children living in poverty was 18 percent. In Senator Brewer's two counties, for example, there are 40 percent of children in those two counties living in poverty. And I hope all of you take a chance to read the Kids Count report. They have a really incredible map that they've put together by legislative district on...and it's actually on the First Five Nebraska Web site, excuse me, that tracks children ages zero to five who are at risk of failing in school. In my district, for example, the number is 49 percent. Forty-nine percent, half of the children in my district are at risk of failing in school. Under the Child Care Subsidy Program that is subject of this bill, we are able to help just a few of those most needy families.

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The childcare these subsidies help pay for occurs most often from small children, birth to age five, which we know is a critical time for a child's life and their development. And I've seen in the work that I've done as a staff member here at the Legislature over the six years I worked here, I've seen bills related to the Child Care Subsidy. I saw one where a First Five Nebraska testifier stated that there is no other early childhood program, birth to five, that comes close to reaching the same amount, the same number of children that the Child Care Subsidy reaches. And this is...so this is definitely a program we should be strengthening, and I will work hard to do that as a member of the Appropriations Committee in the coming years. And I actually reached out to CEDARS. They run two...in Lincoln they run several early childhood development centers, and they told me that they currently have 20 children on their wait lists who are waiting to get in to their important services. So I hope you'll join me in voting in support of AM703. I think it's a critical amendment for us moving forward, because we need to ensure access to quality childcare for these young children who will grow up to become our work force and our future leaders. Thank you. [LB335]

SENATOR CRAIGHEAD: Thank you, Senator Wishart. Senator Krist, you are recognized. [LB335]

SENATOR KRIST: Thank you, Madam President. And I've had several conversations off the mike. Senator Riepe has asked me potentially to pull the amendment and we can deal with it again on Select. I'm not necessarily tuned in to do that, and here's the reason why. If 60 percent mandatory floor existed before and we get a new market analysis that says that 50 percent floor, as AM703 would require us to have, is not a cost savings, then we can go back on Select File and change that number to reflect. But I think this is something...this is a sign, this is a commitment, this is the right thing to do for those providers and for the subject matter at hand. Allowing no floor to exist may be a great savings in dollars and cents but a huge cost to the childcare system in the state. So let's establish a floor, reestablish a floor of 50 percentile in terms of paying out, and if that number is wrong when we actually get the information that we need through the market analysis, we can tweak that on Select File. It is essentially establishing a floor that those providers can believe in and that we will attest...that we will commit ourself to going forward. It is true, you could do it in reverse, but this discussion has, I think, illuminated the fact that we cannot abandon some of the commitments that we have made, both for the potential of having

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federal fines exist for the, basically, the inability to provide those services in childcare and also the establishment of the right thing to do. When we have services out there that are being provided by private care and by service providers, and they can't do their budget, I'm asking you small businessmen to listen because how would it be if you didn't know how much money you had to deal with going into your next year? That's what we're talking about here. We're at least making a commitment that the 50 percentile is as low as we can go. See, if I could say right now, all you childcare providers out there, you're level, this next year you're level or you're going to get maybe a 1 percent increase because we all hurt in the state of Nebraska, we all have to take our hit in terms of balancing our budget, can't do that. That's out the window. Choice two: I can say LB335 is a good bill. It's not a good bill because it doesn't...it takes away the parameters. I would be concerned if we had a lot of money that they would pay more than 75 percent. But I'm concerned this year that they're going to pay less than 60 percent. And those parameters have kept us in good stead with the federal government and the programs that we provide. But now we're removing that lower level. We're saying, you pay them what you want to pay them in order to balance the budget. That's wrong. It is dead wrong. We have to stand up for the providers. We have to stand up for the families. We have to stand up for the kids. And we have to reestablish a floor. The floor on General File may change from now until Select, but it is a floor. It is a commitment to those services to the kids. I make a commitment to all of you to watch the market analysis as it comes out, to work with Senator Stinner, if he needs to. I mean, he's got Senator Bolz who understands the situation perfectly, I think, and the rest of his committee. I don't think they need my help. But working together we will establish a minimum level that will be a continuance of good service to those kids and families. [LB335]

SENATOR CRAIGHEAD: One minute. [LB335]

SENATOR KRIST: There's not a whole lot for me to say, a lot more for me to say other than I don't believe that we as a Legislature should give up the oversight and the ability to say this is the minimum that you're going to cut. And if we don't put a minimum or a floor back on LB335, it sends a really, really bad message to those people who are out there providing these services. Thank you, Madam President. [LB335]

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SENATOR CRAIGHEAD: Thank you, Senator Krist. Senator Kolterman, you are recognized.  
[LB335]

SENATOR KOLTERMAN: Thank you. I thought I'd visit a little bit about the process that we've gone through on this bill. I do support LB335, and I, in concept, I support AM703 by Senator Krist. But as this is my third session now being on HHS and as we've looked at these different bills, these bills were brought to us--LB333, LB334, LB335, and LB336--were all bills that were brought to HHS to talk about from appropriation and through the Governor's Office to figure out how we could fit these potential increases into the budget so we wouldn't...so we could cut some expenses, future expenses, I guess. We have held in committee LB334, which is a family finding bill, and the reason we kept that in committee was because it hadn't had a chance to really be looked at and evaluated in a proper manner. The others advanced to the floor. And what you're seeing today is LB335. We had another bill that we advanced to the floor that increased some fees. Those will be talked about later. But those fees, we felt that if we were going to adjust fees, we should make it worthwhile. Nobody wants to make these cuts, absolutely. There isn't a person in here that wants to take this away from our day-care providers. We have had steady increases over the years, contrary to what some people think, but have they kept up? Not necessarily. My recommendation would be that we follow Senator Krist and we allow...if we allow this amendment to go forward, we adjust it on Select once we have the outcomes of the report that we're supposed to receive. That's the only way I could support the amendment. Or the other way would just be wait till we find out what that's going to cost and then bring it back. So I'm not sure exactly how I'm going to vote on AM703. I do agree with the concept. I don't think we're being extremely unfair to just the day-care providers. We're asking everybody to make serious adjustments to their budgets, whether we're talking about education, the University of Nebraska. Everybody is taking a hit. So, again, nobody wants to do this LB335, but it's a necessity in a down year that we have, and I would remind you that we've got \$900 (million) to \$1 billion that we've got to figure out where it's going to come from over the next biennium. And I'm not so sure, when I talk to my ag partners out there, that the ag economy is as strong as people think and I hope we don't have to make further adjustments. So every time we chip away little by little, whether it's \$1 million here or \$2.5 million, we put more pressure on ourselves through appropriations. And that's why I'm not sure about AM703. But we do need to move LB335. And



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if we get a good report, I think we could go back and make the amendment, AM703, viable.  
Thank you. [LB335 LB333 LB334 LB336]

SENATOR CRAIGHEAD: Thank you, Senator Kolterman. Senator Pansing Brooks, you are recognized. [LB335]

SENATOR PANSING BROOKS: Thank you, Madam President. Well, friends, these are the poorest of the poor that we're now going after. Senator Kolterman talked about worrying about the ag economy, and I know we need to worry about that. I would feel better if we talked about those who are in the most dire need within the ag economy. And when we talk about and paint a big, broad brush over the whole ag economy, it's disingenuous. Not everybody is hurting. There are a lot of people hurting. There are a lot of changes that are going on. But we're now talking about, well, we're just going to...these are the poorest of the poor. These are parents or a parent working, working. These are wage earners. The Child Care Subsidy serves more than 30,000 children, 10,000 of whom are infants and toddlers. So these children have parents who are wage earners--exactly what we want. And so we cut. We make more cuts. Guess what happens when we make more cuts? These parents generally are earning less than \$26,000 for a family of three. But everybody needs to keep hurting. Everybody needs to hurt. There's a difference between the ag economy and parents, a family of three, who are earning \$26,000. Again, attempting to cut and deal with our budget on the backs of the most poor, the most vulnerable, those without a voice, those who cannot hire lobbyists to come in here and pull us off the floor, I just don't think it's morally...I think it's morally wrong. The Intergenerational Poverty Task Force talked about increasing access to high-quality, affordable childcare, and included it in their strategic plan. A survey from Buffett and the Gallup group in March 2016 said that two-thirds, 67 percent of Nebraskans, strongly agree that we should make early care, childhood care, and education a higher priority. But yet we want to go in and cut and deal and fix our budget on the backs of the poorest of the poor. And this is a work force issue. This is about having people able to be employed. We know that the number one issue for the State Chamber is work force development. Well, if you want to talk about work force development then let's just cut the ability for parents who are the poorest of the poor to be able to get childcare, and we'll just cut more people out of being able to be in the work force. We should be helping, not hindering, those who are trying to

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work. Again, I support AM703. I am torn on LB335. I just...I can't even believe that it came out.  
[LB335]

SENATOR LINDSTROM PRESIDING

SENATOR LINDSTROM: One minute. [LB335]

SENATOR PANSING BROOKS: And I will give the rest of my time to Senator Krist. [LB335]

SENATOR LINDSTROM: Senator Krist, you're yielded 55 seconds. [LB335]

SENATOR KRIST: Thank you, Senator Pansing Brooks. Thank you, Mr. President. Very quickly, obviously I support AM703, and I support LB335 as a budget-cutting measure. But to be clear, colleagues, I cannot support LB335 without AM703, and I would ask you to think about doing the same. We have the opportunity between now and Select to adjust our course, but at the present time I think it's important that we set a standard and that standard is, for our kids and families, we are not going to go below the 50th percentile. Thank you, Mr. President.  
[LB335]

SENATOR LINDSTROM: Thank you, Senator Krist. Senator Morfeld, you're recognized.  
[LB335]

SENATOR MORFELD: Thank you, Mr. President. I want to just make a few points on some of the things that were said earlier. I still have not gotten assurances from Senator Riepe in terms of the language in the bill where it guarantees that it holds the funding as it currently stands for the next biennium. Also, today we talked a little bit, or just a few people earlier, we talked a little bit about the choices that we have to make, the tough choices that we have to make on the floor today because of the budget situation. Well, the budget situation that we are in is partly because of the commodities issue, but it's also a structural deficit that we have created. So we're making these choices because of policy failures that we created ourselves several years before, some of which...some of us which have been in the body for that and made those decisions and some of us that are inheriting that problem. I am not going to support measures like this, LB335, that

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make cuts to making it so that working families can work and be successful members of our society and taxpayers while there is still serious consideration on this floor of cutting revenue in a time that we're in a severe revenue downturn. It makes no sense. It doesn't make good business sense and it doesn't make sense for working families which are the backbone of this state. I think it's important to realize how critical these types of programs are to keeping people at work. I gave you one personal example of my family, a military family where a mother had to make a decision whether or not she was going to continue to work or whether or not she'd stay at home with the kids because childcare was so expensive that she essentially was making nothing after working full time and paying for childcare. These are the types of decisions that working families have to make and when we make decisions like this, which essentially leads to less of these services being available for working families, that's the kind of impact that we have-- working families deciding whether or not it's worth it for them to work and still take care of their children. I'm opposed to LB335, and I'll stand in strong opposition. And I'm sure we'll get to a vote. But if AM703 does not pass, we will go into extended debate on this issue. To me, AM703 is critical to at least making it so that we have assurances that the cuts will not be as severe. I would still like to see an assurance on the bill or amendment from Senator Riepe that actually says that we will hold the current rates steady, because I can guarantee you the cost after the market survey isn't going down to provide these programs. Colleagues, I urge you to adopt AM703. It provides the necessary assurances for what I think is a bad bill in general, but I will support AM703. I will vote against LB335. And if AM703 is not adopted to this bill, we'll be debating this much longer. Thank you, Mr. President. [LB335]

SENATOR LINDSTROM: Thank you, Senator Morfeld. Senator Quick, you're recognized.  
[LB335]

SENATOR QUICK: Thank you, Mr. President. I will be supporting AM703. I am also still torn on LB335 on how I will vote on that yet. But you know, I understand the need for budget cuts. I agree with Senator Morfeld. I'm not sure we need to do it on the backs of our...of the poorest and our working families. And I would ask all of you, Senators, to look at your districts, and I know in my district children under the five years of age living in poverty is 33.4 percent for my district, and children over the age of 18 is 27.7 percent. Look at your districts and see what you find for children living in poverty. I also say as I went door to door, which has just been within the last

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year, in 2016, and talking to working families, I come across a lot of them, they're working two, three jobs, maybe one of the parents, even just single parents. But what you'll find is that--and same thing that Senator Morfeld said--they have to make a choice between whether they can actually work or paying for day care. Even talking to my own children, talking to them about the cost of day care and how expensive it is, I know one of my kids, he has to have...they have to be there a certain number of days of the week whether they work or not. You know, if he takes a day off they still have to pay for that day. So I know it's very expensive. And I know that day cares, you know, they have to provide for themselves as well. The other thing, I know it was brought up earlier by Senator Howard about the fact if we fall below a certain amount that we could be fined, you know, we talk about gambling in this state and how we don't want to, we're against gambling, but are we willing to gamble in this Legislature to lose \$30 million or have to pay that back? So with that, thank you, Mr. President. [LB335]

SENATOR LINDSTROM: Thank you, Senator Quick. Senator Howard, you are now recognized. [LB335]

SENATOR HOWARD: Thank you, Mr. President. Now it's not...now it's a mister, not a madam. All right. So I thought I'd give some historical perspective to what's going on here, because this is sort of like a same verse, different singers. So under Governor Heineman, they had wanted to make this change as well. So at that point in time they put in some legislation to disregard the lower end of the market rate percentage completely, and people went bananas. To quote Lavon Heidemann, who's a very, very sweet man who shared an office with my mother back in the days when senators had to share offices--you freshmen are very spoiled--he said, I've never come across a bill that caused as much concern and angst as we have had with LB464 in 2011. So at the time when they wanted to get rid of the lower end of the market rate, that was met with incredible pushback from providers because it meant that they could go as low as they wanted. The amendment, AM703, is exactly the same language as was compromised between then Appropriations Chair, Lavon Heidemann, and Governor Heineman. And so AM703 is the same agreement between the department and the Legislature to say, okay, we'll let be the floor be 50 percent for a short period of time and then we've got to go back up. Now in 2011 we didn't have the threat of losing the access and not being able to get \$30 million in federal funding. We didn't have that threat. This year we do. And so if we don't meet that access requirement in October of

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2018, we will not get \$30 million. So I thought I'd also, while we're talking about history and being so very attentive, I thought I'd just take a moment to walk through, walk down memory lane on some of our federal fines that we've had to pay through the Department of Health and Human Services. So since 2003 it has been about \$57 million that we have had to give back to the federal government. It started with Beatrice, with BSDC, and that was \$19 million. And then it was followed up with an issue in child welfare when we mistakingly...we made some mistakes in our privatization contracts and did not allocate federal funding the way we should have under IV-E and we had to give back \$14.2 million. And our most recent is when we bundled payments in the developmental disabilities program. It's still being settled, but right now the amount is about \$32 million. That's \$32 million when we're living inside of a budget shortfall. I mean I think we should all be concerned that we don't know if we'll be able to get those rates up to the percentile that we need to be sure that we can meet this access and not have this hit in a future year. I hate the idea of robbing Peter to pay Paul, especially when we're doing it on the backs of childcare providers and when we're impacting children. If...you know, I think I'll pass it out, but the Omaha World-Herald did an article on November 21 of last year--Martha Stoddard wrote it--that really outlined some of our federal fines, and I would hate to think that the Legislature would want to open us up to that sort liability. With that, thank you, Mr. President. [LB335]

SENATOR LINDSTROM: Thank you, Senator Howard. (Visitors introduced.) Senator Wayne, you are now recognized. [LB335]

SENATOR WAYNE: Thank you. Thank you, Mr. President. I think it's still good morning. Good morning, Nebraska. Came a little late to the dance today. I had court this morning. But after digging into this and listening to some of the conversation, I think what we're losing here is that this is truly a jobs program, and what we're doing is cutting a jobs program to a tune of \$5 million that has, I would say, a ripple effect of \$10 (million) to \$20 million. I think we need to recognize that this is truly a jobs program. And what I mean by that is there's two people, two types of workers I'm talking about: one, the workers in the day care, in the facilities who are providing the services who basically are getting a market rate, which we all think is a good thing that we need to have jobs and people need to provide the services for what they're paid for. But the other person in this situation we need to think about is the parent who is actually getting served in this capacity. That person is either working full time or working part time or in school

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full time. We talk about work force development. We talk about jobs. This is a program that allows our economy to grow and provides a foundation for the people who need it the most. So with that, I would like to yield the rest of my time to Senator Krist. [LB335]

SENATOR LINDSTROM: Senator Krist, you're yielded 3:31. [LB335]

SENATOR KRIST: Thank you, Senator Wayne, for your courtesy. Thank you, Mr. President. I wonder if Senator Riepe would engage me in a conversation on the mike, please. [LB335]

SENATOR LINDSTROM: Senator Riepe, would you yield to a question? [LB335]

SENATOR RIEPE: Yes, I will. [LB335]

SENATOR KRIST: Senator Riepe, I just want those that are present here in the Chamber to understand a conversation that we had with the concurrence of Senator Stinner as well as one of our fine fiscal analysts, Liz Hruska. If we attach AM703 to LB335, we will indeed be putting no lower than a 50th percentile in terms of a payout with this program. Is that correct? [LB335]

SENATOR RIEPE: That's my understanding. [LB335]

SENATOR KRIST: Okay. And if we do that on General File, that information at 50th percentile, and the fact that the report will have been released which will give us the market analysis will allow Liz Hruska to give us a true fiscal note on Select File. Is that also correct? [LB335]

SENATOR RIEPE: That's what I understand. [LB335]

SENATOR KRIST: And I've given you my word, and I think that I'll give you the rest of the time to express your opinion. But I really believe that we need that information in order to actually exercise a true and equitable cut, if it is required for this program. And with that, I would yield the rest of my time to you. [LB335]

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SENATOR RIEPE: Thank you, Senator Krist. I think the concern here is that we have a certain number that we have to get to for the budget. We want to be fair to the childcare providers. We also want to be a little bit more cautious. If we do set the floor at the 50th percentile, in a de facto way we're looking at the 60th percentile at this rate, it would afford the department, under some bizarre situation, to go below the 60th percentile, if you will. That is my concern. That's why I had expressed my concern about the amendment and my interest was still trying to look at it on Select, not on General. But Senator Krist makes a point in the sense to get the number. I want the number. I want to see the results of the University of Nebraska study. I want to have our Fiscal people be able to take a look at that and say where are we really at based on the most recent information that we have. So that's where I stand right at this time... [LB335]

SENATOR LINDSTROM: One minute. [LB335]

SENATOR RIEPE: ...and we'll go from there. [LB335]

SENATOR LINDSTROM: Thank you, Senators Wayne, Krist, and Riepe. Senator Crawford, you're now recognized. [LB335]

SENATOR CRAWFORD: Thank you, Mr. President. I rise again in support of AM703, and I wanted to emphasize the importance of passing AM703 on General File so that we can get the fiscal note and we can get the information that we need. We still then on Select File can have added debate, if necessary, in terms of how to make sure that if we're moving forward with a budget provision that is happening in terms of reducing our costs, saving money on our childcare subsidies, that we're moving forward in a way with our full information and moving forward in a way we try to do it in the fairest way and in the way where we cause the least harm possible. And, colleagues, again I want...we have tough choices to make. You know, this is our childcare subsidies that impact so many of our families across the state. But we also have other programs that we're looking at that are facing decisions about cuts that affect our children with developmental disabilities and other programs like Right Turn and other programs that we've heard concerns about that are on the table in considering how we can best use our dollars. So with AM703, as we move forward we at least know that we are setting a clear floor on the cuts that we need to make in order to try to balance the budget in a very tough fiscal year. And again,

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it is an approach that we have done in the past when we've had these tough financial years. It's an approach that says we're going to make sure that you're not getting paid less for a year and make sure our rates don't fall below that floor of 50 percent. And again, when we get our market rate and we have this back on Select File we'll have more information about what that 50 percent floor looks like. But making sure we're setting a clear floor in terms of how we're moving forward with this decision is critical, and I believe it's critical to pass the amendment on General File so that we have that clear fiscal note and good information when we come back to this debate and discussion, if it passes General File, when we come back to the debate and discussion on Select File. Colleagues, really, I think when we look at LB335, the fact that we do need to make sure we're complying on access and the fact that our statute does then have us come back and make sure we're pulling those rates back up in a year or two makes me feel more comfortable with LB335 as one of the tough cuts that we need to make if AM703 passes. If AM703 passes we have some guardrails on this cut, and we try to hold those rates the same, so it becomes more of a freeze in trying to hold those rates the same, with the recognition that we're going to come back and increase these rates, as required in statute. And more than likely we're going to be coming back to increase those rates even before that if necessary to be compliant with federal access statutes. So I do want us to be just cautious and aware, as we're thinking about how much money this is going to save, that we do need to be aware that we are going to need to remain compliant to have this very important program in our state and to get those federal subsidies that make this program affordable for our state and our families. So, again, I urge your support for AM703. It's a tough choice to move forward... [LB335]

SENATOR LINDSTROM: One minute. [LB335]

SENATOR CRAWFORD: ...with it. Thank you, Mr. President. It's a tough choice to move forward with LB335, but I feel, of all the tough choices that we're making, this one has some protections in it because we do come back again, under statute, in two years to pull that rate back up, and we even before that will have to work with the Appropriations Committee and the apartment to ensure that by October that we are making sure that our rates are consistent for access. And so we will be having to make sure that we have some attention to that issue as we move forward. But I urge you to support AM703 so that we're sure again that we're not...that we are making sure that those providers have a floor, and again protecting to make sure that they are



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not getting a cut in the rate, but that there's at least...making sure that they're not getting less than they're making now. Thank you, Mr. President. [LB335]

SENATOR LINDSTROM: Thank you, Senator Crawford. Senator Riepe, you're recognized. [LB335]

SENATOR RIEPE: Mr. President, members and colleagues, I think there's some confusion, if you will, in terms of the implication that we do have to move AM703 in order to have rates or a fiscal note, if you will, when we go on into Select File. I am told by the Fiscal staff that we will have those rates, that those...a senator can request those rates. And I would be doing that because I am committed to having the best and most current information that we can possibly have. And while it's not a direct conversation that I've had with the Speaker, he has assured us that he would hold or manage the bill to make sure that we don't get it ahead of the information coming in from the University of Nebraska. I also wanted to clarify, Mr. President, some comments that I think were talked about, and one of them implied that we would do a clawback, which...of childcare funds. And this implies that it would be a reduction in subsidies rather than a cost avoidance. And I had also wanted to talk a little bit about, because two of our distinguished senators have talked about, waiting list. There is no waiting list for the subsidies. There may be a waiting list for one's preferred childcare center. And I would also like to point out that parents often, when you have a child, you apply to multiple centers for admission and you don't...simply kind of like going to college. You apply for a number of schools and you don't necessarily apply to one. So I think the crisis of what we do or don't pay, or support that we do or don't provide is misleading. Thank you, Mr. President. That's what I have. [LB335]

SENATOR LINDSTROM: Thank you, Senator Riepe. Senator Schumacher, you're now recognized. [LB335]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Normally we're a pretty conservative state, and we try to deal with risk. We'll put up sirens to alarm us to tornadoes in every little town and test them once a month or once every two weeks in the summer to make sure they work, even though the odds of them ever doing any good are remote. Once in a while we will have a situation like we had up in Pilger. But we invest a lot to protect lives in that

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situation, even though the risk is remote. We'll build levees costing millions of dollars to protect against a once-in-a-500-year flood. We're really cautious and risk averse. And listen to what we're doing now in this bill, and we'll be doing a whole lot more as we study the budget and some of the tax things that may or may not emerge from the Revenue Committee. We are assuming that somehow a couple years from now everything will be coming up roses and we will be rich again. On the other hand there's a risk that we're in the new normal. Ag prices, forget about the unusual situation they had for a couple years, are about normal. Chart out the price of corn and beans and you'll see what it mean. There's no real thought that we're going to have any huge influx of population from the outside or massive, new investments in the state from some New York brokerage house deciding Nebraska is the place to be. We're normal. There is at least a reasonable probability that what we have now is normal. Let's call it 25 percent, 50 percent. And yet I heard this morning that, you know what, we got take this short-term cut here because, well, that's just the normal thing that we have to deal with this year, but we'll be able to put the money back next year or we'll get a fine of however many millions of dollars again. But where's that money going to come from? If we aren't raising revenue in Revenue Committee this year, what makes us think we're going to do it next year or the year after that? We are deferring into the future expenses we should be doing today. We are not putting oil into the car to save money on the idea that we'll have plenty of money a year from now to replace the engine. We are about to engage in some really, really risky policies by not paying bills as we see them, by turning a blind eye toward needs that have been building for years and being ignored, by pretending that somehow magically we're going to have a rush of new revenue because of growth. It's going to come from somewhere but we don't know exactly where. The folks in the freshmen and sophomore classes, it may be great fun to say, okay, we'll go along with this because there must be smarter... [LB335]

SENATOR LINDSTROM: One minute. [LB335]

SENATOR SCHUMACHER: ...people than us that know this. Well, there isn't. But when you go along with some of this and when we defer these expenses, decline to raise the revenue necessary for the operations of the state, you're going to pay for it because these bills don't get cheaper. They get more expensive, and this bill that we're on now is just one indication of it. And we got another bill coming up on how we're going to subsidize housing for the people who are engaged

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in jobs that they won't pay for the freight on their housing. There are big problems, and there are big problems that we're going to make worse, I'm afraid, this year. Thank you. [LB335]

SENATOR LINDSTROM: Thank you, Senator Schumacher. (Visitors introduced.) Senator Baker, you're recognized. [LB335]

SENATOR BAKER: Question. [LB335]

SENATOR LINDSTROM: Question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB335]

CLERK: 25 ayes, 5 nays to cease debate, Mr. President. [LB335]

SENATOR LINDSTROM: Debate does cease. Senator Krist, you're recognized to close on your amendment. [LB335]

SENATOR KRIST: Why don't we have a call of the house while I'm closing, please. [LB335]

SENATOR LINDSTROM: 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. [LB335]

CLERK: 30 ayes, 0 nays, Mr. President, to place the house under call. [LB335]

SENATOR LINDSTROM: 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. [LB335]

SENATOR KRIST: May I continue with my closing, Mr. President? [LB335]

SENATOR LINDSTROM: Please proceed. [LB335]

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SENATOR KRIST: Now that most of us are back here, and I wanted to make sure that we were all here for this vote, I will repeat what I said in terms of my promise to Senator Riepe, a conversation I've had outside with the department, and that's what I'd like you to consider in this vote. There are two things that we need to come to a proper fiscal note and identify the savings that we will have from LB335. And make no mistake, I support LB335 if amended by AM703 because we have to find a target figure an order to cut the budget, and it needs to be cut a little bit. We know that. The two things we need are the fiscal...the market analysis report. That will tell us what the percentage would be for 50, 60, 70, etcetera. The other thing we need in order to establish a fiscal note that we can tangibly measure and look at on Select File is what percentile we're shooting at first. Now, I've gone below the 60th percentile. I've gone to the 50th percentile. Remember the standard that was in place was 60 to 75. That's thrown out with LB335. There is no floor. We're reestablishing a floor at 50 percent. So those two things will be known when you vote green on AM703 and green on LB335: What does the market analysis tell us is the proper rate, and what percentage are we paying out? But we'll just have a target when we come back on Select as 50. We then will have the good information that we need to adjust that number to where that savings needs to be. There is no good businessman or CPA that would be making long-range, strategic decisions on half the information that we have today. So I ask for your green vote on AM703, and if AM703 is there I will affirm my support of LB335. Thank you, colleagues. [LB335]

SENATOR LINDSTROM: The question is, shall the amendment to LB335 be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB335]

CLERK: 27 ayes, 14 nays on adoption of the amendment, Mr. President. [LB335]

SENATOR LINDSTROM: The amendment is adopted. Raise the call. Senator Chambers, you are recognized. [LB335]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I'd like to ask Senator Riepe a question. [LB335]

SENATOR LINDSTROM: Senator Riepe, would you yield to a question? [LB335]

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SENATOR RIEPE: Yes, sir. [LB335]

SENATOR CHAMBERS: Senator Riepe, what does this bill do? [LB335]

SENATOR RIEPE: Basically, this bill defers any increases in the childcare rates until we get the new surveys in, which would mean sometime in mid-2018 we would have to take a look at them again. But it's fundamentally passing over increases for childcare centers. [LB335]

SENATOR CHAMBERS: Suppose this bill does not pass. What happens then? [LB335]

SENATOR RIEPE: Well, at that point in time we, as a Unicameral, will have to go in and find the funds that were proposed to not be spent, not cut but not be spent, just cost avoidance. We would have to find those. If we have to pay out those funds then we will have to find those in some other project. [LB335]

SENATOR CHAMBERS: If this bill passes, will there be less money available for those who receive funds under this program? If this bill passes, will there be less money for this program available? [LB335]

SENATOR RIEPE: My understanding of the bill is that this...it will not be less money available. It will be the same amount of money, almost like a rate freeze, if you will, for 18 months. [LB335]

SENATOR CHAMBERS: But if this bill doesn't pass, then there won't be this freeze that you're talking about and more money will be available? And then you'd have to go someplace else to find money to balance the budget with? [LB335]

SENATOR RIEPE: Well, this is, if we were forced to or forced to pay out at a different rate then we're going to have to look for someplace else, in this fiscal year, to come up with \$7.4 million in some other program to get to our...what we think this would contribute towards balancing the budget. [LB335]

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SENATOR CHAMBERS: You're old enough to have seen the comic strip "Little Orphan Annie," aren't you? [LB335]

SENATOR RIEPE: Just barely. [LB335]

SENATOR CHAMBERS: And your memory is good enough to let you be aware of who Daddy Warbucks is, isn't it? [LB335]

SENATOR RIEPE: Yes. [LB335]

SENATOR CHAMBERS: He was very rich, wasn't he? [LB335]

SENATOR RIEPE: Yes, he was. That was my favorite cartoon, but, yes, I'm with you so far. Yes, he was. [LB335]

SENATOR CHAMBERS: And Little Orphan Annie was poor, wasn't she? [LB335]

SENATOR RIEPE: Yes, in the terms, I guess, of poor. [LB335]

SENATOR CHAMBERS: And do you remember who the Asp, A-s-p, was? [LB335]

SENATOR RIEPE: No, (inaudible), but if you want to go to Popeye, I could probably stay with you (inaudible). [LB335]

SENATOR CHAMBERS: He was one of these people who was a stereotypical person from "that part of the world" and he had a scimitar. He had a curved sword, and he did things with that sword to people if Daddy Warbucks gave the word or if it became necessary. Do you remember who Punjab was? [LB335]

SENATOR RIEPE: No, I do not. [LB335]

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SENATOR CHAMBERS: This was a very large person who was supposed to be an Indian from India, fitting the stereotype, and he could do magic. He could throw a rug over somebody and they'd disappear. But at any rate, that's all I will need to ask you at this time. Members of the Legislature, I don't like this bill. I don't like the one who brought it over here. Now I don't mean the senator who had to carry water. I don't mean the who one played Gunga Din. I mean the Governor, a rich man's son, who's never had to want for anything. You know why I'm angry this morning and you can't tell it? I've been quiet. I've listened. And you know what I've thought about? You all are the ones who socked it to me because I didn't want pro-life, choose life... [LB335]

SENATOR LINDSTROM: One minute. [LB335]

SENATOR CHAMBERS: ...on that plate. Did you say time? [LB335]

SENATOR LINDSTROM: One minute, Senator. [LB335]

SENATOR CHAMBERS: Choose life, playing like you care about these children. Now, what's the first thing you do? You cut this program. You can call it whatever you want to. Choose life hypocrites, all of you, all of you. This is why you don't like me, because at the time when we should do something for, as I say, the three Ls--the last, the lost, and the least--and those are the children, you all care about fetuses. You care about zygotes. You care about embryos. But you don't care about people who are walking and talking and living and struggling, trying to make it, because you don't have to go through that. You think that man over there in that room who sends the... [LB335]

SENATOR LINDSTROM: Time, Senator. [LB335]

SENATOR CHAMBERS: ...porters over here for you...I'm not through, but thank you, Mr. President. [LB335]

SENATOR LINDSTROM: Senator Chambers, you're next in the queue. [LB335]

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SENATOR CHAMBERS: You all, some of you, know what it means to do without. There was a man in the Senate. He had one of these names of a rich family--DuPont. And one of the senators stood up, trying to get one of those programs and cut it that was for the poor. And he said, we all know what it means to be poor. We all know that. When he sat down, DuPont got up. He said, Senator, I want to correct you. Not all of us know what it means to be poor. You all have no concept of what it is that you're doing because you won't think about it. You avert your eyes and you pretend everything is all right. This little piece of money that you're going to get by cutting this program can be found someplace else. But he's going to tell you all there's equivalency here. We're going to cut across the board and everybody is affected the same way. You're not affected, your children are not affected, so you don't care. But there will be another time, another situation when my friend Senator Kolterman will stand up and say, we choose life, we care about life. Catholics will get mad at me because they believe in social justice. But how about doing some justice now? It's easy to talk about justice in the abstract. When time comes to act you throw in your hand. Or somebody like me, to move the analogy in a different direction, when you talk about how you love children, you care about life, you choose life, then I call. I'll call you. I'll make you turn your cards over and show me what you've got, and you've got nothing. You are a front. You're like those staged fronts in movies. You open the front door and step through, and you're in the backyard. That's what is going on here. I have tried to exercise control. I wanted Senator Krist's amendment adopted. It's like somebody sticks a knife in your back and they pull it out halfway. It's still a wrongful act. And you can live with yourselves? Suppose you saw a group of little children trooping down the street when you leave here, got ragged clothes. Some have shoes; some don't. You just say, isn't that terrible? Isn't that terrible? And yet it's in your power to do things and you won't do it. And I'm the villain. I cannot make you do anything, and it's foolish for me to try. Your Jesus can't make you do anything. You didn't think I was going to get on that today, did you? You know why I handed out that sheet this morning? To show you what I have done in the past, when the Legislature would get in a bind and they did not know what to do. There were 47 bills on General File, bills that needed to be processed. Some of them nobody could get to them. So you know what? I'd be called ordinarily obstructionist,... [LB335]

SENATOR LINDSTROM: One minute. [LB335]



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SENATOR CHAMBERS: ...obstructionist plenipotentiary. Look that up in your dictionary. But then when I'd rescue them, savior extraordinary. Napoleon said admiringly about Hannibal, a general from antiquity who marched his troops and his elephants over the Alps and hectored Italy and Rome for about a dozen years: He conceived the inconceivable, he executed the impossible. That's what I do around here when it's necessary to save the Legislature. Only black man here. They couldn't figure what to do in the mess they got themselves in. So I said, there's a way to do it, it's in your rules! But I had to bring it to them, and I said... [LB335]

SENATOR LINDSTROM: Time, Senator. [LB335]

SENATOR CHAMBERS: Thank you, Mr. President. [LB335]

SENATOR LINDSTROM: You're next in the queue, and this is your third time. [LB335]

SENATOR CHAMBERS: There were 47 bills, and I said, this can be handled by us because we're the Legislature and we can do whatever needs to be done. In those days I'd always vote no on the rules and ask for a roll call vote so it would be clear, and I did it to show that even though I voted against the rules I would always comply with the rules, always, rules that I voted against. And yet those who wanted the rules would not comply with them because they could always suspend them, and usually they'd want to suspend them when I was involved. But they never thought about suspending the rules to take care of a serious problem that they had. So how can the Legislature move 47 bills in the short time we had? Leave it to somebody who can think. So I told them, we can suspend the rules, and we'll suspend the rules that would prevent us from doing things according to ordinary procedures and processes, and the individual bill's rules were mentioned and they were suspended. And on one vote 47 bills were moved from General File. You ever hear of that being done before? They hadn't, they, the master race. And I would hear things on that floor, the stereotypical kinds of things, watch the kind of bills that meant something to them, the groups that they had to kowtow to. But they didn't have sense enough to bail themselves out of a problem of their own creating. And now here we are today. Who's going to speak, other than Senator Morfeld and some of the others who spoke, for those who are going to be harmed if the Legislature does what the Governor told you to do with this bill? This bill doesn't have to pass. And you can generate revenue too. That's what Senator--I'm going to have

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to call him "Professor" today--Schumacher was telling you. We can raise revenue. Didn't you all know that? There's a budget cut. There's a deficit. The Legislature has the power to raise revenue. But from whom would you raise it? You don't mind raising it by taking it from those who can afford to lose it least. Why don't you add something to those who are rich, like that fellow sitting over there, the son of a rich man? You think it's going to hurt him and his father and his ilk? And you're all rattling around and battling around over in the Revenue Committee on how you're going to get money to cut taxes for these people who don't need tax cuts. If we're going to have a misery index, the poor children and their parents are on the bottom rung of that misery index ladder, and they have no voice here of their own. Some of us try to speak for them. They have none of their kind on the floor of this Legislature, so their interests are given short shrift. I haven't decided yet what I'm going to do on this bill, but it's not going to move this morning. I promise you that. And that's a promise that I make to all of those people out there who ought to be helped by us instead of being sorely mistreated. [LB335]

SENATOR LINDSTROM: One minute. [LB335]

SENATOR CHAMBERS: So what I'm going to do is put a motion up there. And I can honestly tell you that I don't know precisely how far I'm going to go with what I'm contemplating, but I have to maintain status quo. And I'm going to see what this Legislature is made of. I don't mind being the state villain because I know for whom I will assume that role. Thank you, Mr. President. [LB335]

SENATOR LINDSTROM: Thank you, Senator Chambers. Mr. Clerk, do you have a motion on the desk? [LB335]

CLERK: Mr. President, Senator Chambers would move to indefinitely postpone LB335. [LB335]

SENATOR LINDSTROM: Senator Riepe, as the principal introducer of the bill, you have the option to take up the motion or lay the bill over. [LB335]

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SENATOR RIEPE: Thank you, Mr. President. We need to continue forward with LB335. This is essential. Today we've had a full and fair discussion. We've accommodated the amendment, so... [LB335]

SENATOR LINDSTROM: Senator Riepe. [LB335]

SENATOR RIEPE: Yes. [LB335]

SENATOR LINDSTROM: You can take it up or we can lay it over. Those are the two options. [LB335]

SENATOR RIEPE: I want to take it up. [LB335]

SENATOR LINDSTROM: Thank you, Senator Riepe. Senator Chambers, you're recognized to open on your motion. [LB335]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, we'll be on this bill tomorrow. I don't have any idea how much time was spent on this bill precisely, but the other bills didn't take that much time. And I've listened to the discussion. I've talked to a few senators off the mike. And sometimes if you can't get all that you want, you get what you can. And I was watching those who were trying to mitigate the harm that this bill will do. They had no way to erase all of it. But maybe if the full-court press had been undertaken and there was a determination on the part of the Legislature to do that which is just, that which is proper, that which is decent, this bill could have been dispatched before now, because a vote could have been taken and it could have been done away with. If you all will fight because...I understand--I'm digressing-- that the Lieutenant Governor was out there lobbying on the license plate yesterday. Now, if that's a lie, somebody told it to me. He wasn't out there? He was out there lobbying on the license plate, and he's a pro-lifer. Is he out there lobbying now for the children, the hypocrite? That's what I called him because I know the things that he has said about how vile the words are that I use when I condemn the work of the Catholic Church, not individuals, the church's policies. And that hypocrite is out there lobbying for a license plate. That's the morality of the Catholic people that I watch in action. And I give him a name. He's got a name--Foley. I

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don't talk behind people's back. And I told you that what an individual believes is between him and her, him or her and what or whom they believe in. And he finds it so important that the Lieutenant Governor lobbies for a license plate. Then his boss and he agree to conspire to harm children. A license plate is more important than the children. Is he out there? He could have lobbied his boss. He could have said, Gov, you and I are both Catholics and...or there comes a time when we're going to have to at least make it seem like we believe something based on what we do. So since this involves the children, can we kind of back off, because I'm starting to feel uncomfortable? On the death penalty, I didn't speak against the death penalty like I used to do because now I work for you, and you don't want me to do that, so I'm going to get quiet on that. But at least let me have this one. Leave the children alone. But would Foley do that? Nope. Why? Because it's more important that he please the son of a rich man and walk in lockstep with those who want to give a break to the rich people. Am I against the rich people? No more than Jesus. I'll quote Jesus: It will be harder...it will be easier for a camel to go through the eye of a needle than for Ricketts to go to heaven. And you think Ricketts believes in heaven? He laughs at stuff like that. He couldn't do what he does if he believed inside a heaven or a hell. That's for the suckers. As the comminus said, religion is the opiate of the people. You narcotize people. You dull their sensitivity. You dull their ability to think, to be moved by conscience, and you let them be comfortable in the presence of the suffering of people you want to suffer. One thing I notice when these preachers are up there preaching, whether it's one of you all or these preachers from the outside, one of these freelance preachers or a jackleg preacher: You never preach about the children. You don't do that because you going to hurt the children, and you're going to hurt the parents of those children. And you're going to say, why don't you get off your lazy rump and go to work? Well, I need childcare. Well, if you couldn't take care of the little so-and-sos, you shouldn't have had them. And I've heard senators say that, only they use a B word. They say bastards. That's what they refer to the people's children as, the children of poor people. If you couldn't take care of the little bastards, why did you have them? And then they say, oh, we're pro-life, we're against abortion, put choose life on a license place. And look at how you even refer to the little children. Listen to your own words and watch your conduct. Why doesn't the World-Herald editorialize about these things? Why doesn't the Lincoln Journal editorialize about these things? Because they've got more important things to deal with also. This is a grown person's world. Children don't count. They're expendable. They're the unpeople. That's why grown men can have sex with little girls. Why grown female teachers will seduce boys, because

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they're objects. They're there to be used. They're innocent. They trust people. They don't even know what's happening to them. So they can be told this is the way it's supposed to be, this is the way you're supposed to be touched, this is going to teach you this, this is going to teach you that, with little bitty children. Choose life? Don't make me laugh. A fetus, save the fetuses! An embryo, save the embryos! A zygote, a human being exists at the zygote stage. As soon as a sperm fertilizes an egg, that's a human being. It's just a matter of time for them to get out in the real world so we can abuse them, use them and abuse them. Look at this bill. You want to say that bill has nothing do with what I'm talking about, don't you? Well, it does, and I'm going to remind you. So we'll have a chance to talk about it tomorrow, and all you good Christians, why don't...maybe if you all fast the rest of the day, don't go eat off the lobbyists. Fast and pray. Fast and pray. The "Bible" says that the effectual fervent prayer of a righteous man availeth much, but Jesus can't find a righteous man. So you can pray all you want to. And I'm not talking about p-r-e-y because I don't want you to run out here and abuse some little child. Do it by long distance. You don't have to look at them. Just take the money away. And then ask, why these lazy, poor people, why don't they go out and get a job for some rich person, clean up their house, take care of their babies, cook their food, wash their dishes? And all of them are God's children. I understand now why that little white boy, he was in his crib and his...he was playing with a little smartphone. His mama came and took the phone from him. You know what that little fellow said? [LB335]

SENATOR LINDSTROM: One minute. [LB335]

SENATOR CHAMBERS: (Singing) Nobody knows the trouble I see. A little baby singing that, a little baby, very effective. So I'm going to be me. Isn't that what Frank said or Sammy Davis Jr.? I got to be me. I got to be me. What else can I be but what I "yam"? And you know what I "yam." I "yam" what I "yam." And that's all that I "yam." You don't mind giving me a little time because you know when it's over you're going to be able to gouge the little children anyway. It will just be less time that we spend on the license plates. And with all that time you spent talking about the license plates, certainly we can spend some time talking about this or you can spend some time listening or you can spend some time ducking and dodging and making sure you don't have to listen... [LB335]

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SENATOR LINDSTROM: Time, Senator. [LB335]

SENATOR CHAMBERS: Thank you, Mr. President. [LB335]

SENATOR LINDSTROM: Thank you, Senator Chambers. Mr. Clerk, items for the record?  
[LB335]

CLERK: Mr. President, Enrollment and Review reports LB46, LB46A, and LB140 as correctly engrossed. I have a series of amendments to be printed to LB447, Senators Albrecht, Geist, Brewer, Halloran; Senator Bolz, an amendment for LB518. Transportation Committee reports LB83 to General File. An announcement: Business and Labor will have an Executive Session at 1:00 today in Room 2022. Name adds: Senator Brewer to LB14, Senator McCollister to LR26. (Legislative Journal pages 772-774.) [LB46 LB46A LB140 LB447 LB518 LB83 LB14 LR26]

And, Mr. President, Senator Quick would move to adjourn the body until Wednesday morning, March 22, at 9:00 a.m.

SENATOR LINDSTROM: The motion before us is to adjourn. All those in favor say aye. All those opposed say nay. The ayes have it; we are adjourned.