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Floor Debate
April 05, 2017

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PRESIDENT FOLEY PRESIDING

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

SENATOR RIEPE: (Prayer offered.)

PRESIDENT FOLEY: Thank you, Senator Riepe. I call to order the sixtieth 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 for the Journal? [LB647]

CLERK: I have no corrections.

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

CLERK: I have neither messages, reports, nor announcements at this time, Mr. President.

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senators, if you'd come to order, we're going to get right down to business. We'll now proceed to the first item on the agenda: General File, 2017 Speaker Priority Bills. Mr. Clerk.

CLERK: Mr. President, first bill this morning, LB647. Pursuant to Rule 6, Section 3(f), Senator Murante would move to indefinitely postpone the bill. [LB647]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Pursuant to the rules, Senator Murante, you're recognized. [LB647]

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SENATOR MURANTE: Thank you, Mr. President, members, good morning. I am going to comment very briefly on what I think is bad policy relative to elections. My comments have nothing to do with LB647. I spoke with Senator Pansing Brooks before we began debate today and I appreciate her courtesy in allowing me to use this as a forum and the moment I am done speaking, I will withdraw my motion. But, colleagues, yesterday both the city of Omaha and the city of Lincoln conducted elections for the purposes of electing their city leadership. Lancaster County, the city within Lancaster County which conducted their elections, had an 18 percent voter turnout. Douglas County, which elected its mayor...nominated its mayor, had a 21 percent voter turnout. These are historically abysmal voter turnout percentages. And beyond the fact that we have such a small percentage of people electing such important leadership positions, we understand the fact that they are incredibly expensive. In the case of the city of Lincoln, they conduct citywide elections every single year. The city of Omaha over a four-year period takes one year off. This is a cost of hundreds of thousands of dollars to property taxpayers. And it's terrible public policy to have such poor voter turnout. And we know historically speaking, these numbers are consistent. It is not a reflection of the candidates. It is not a reflection of public interest. It is a reflection of the fact that we conduct elections in these two cities in a way that causes permanently poor voter turnout. I believe we need to begin a discussion, and we have had discussions off the microphone in the Government Committee and elsewhere. Many members of this Legislature know this is a problem because this isn't a first-time thing. This is a consistent pattern. And what's also historically true is the citizens got together in the month of April and five weeks later, the same group of about 18-25 percent of the vote are going to get together again to conduct the general election in May. And in some instances historically, the elections are so close that the general election actually has a lower voter turnout than the primary election. It's terrible public policy. And in addition, Lancaster County, the city of Lincoln elects their city council in a very peculiar way, where four are elected by districts and three are elected at large. Now, there is a time and a place for at-large elections. The place for at-large elections are not in enormous, very large political subdivisions with disparate interests and segregated interests. I think it's time to have the discussion about whether a municipality...and this Legislature has identified that the city of Omaha should not be conducting at-large elections. We have eliminated their ability. Every political subdivision within Douglas County no longer conducts their elections at large. And the reason for that is every community within Omaha needs to have a seat at the table. We've identified that as a public policy interest on the state level. I think we need to have that discussion for the city of Lincoln as well. So in the very near future, I will be introducing an interim study which the Government, Military and Veterans Affairs Committee will look at to discuss the city elections in Lincoln and in Omaha and all the political subdivisions about whether it makes sense to perpetually have low voter turnout in extraordinarily costly elections. To me, yesterday was a perfect example. It illustrated the problems of the policy that we have right now and I think we need to at least have a discussion about that over the interim. I certainly don't think that we should change the rules for this election cycle. But going forward, we need to examine whether or not it makes sense to conduct

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elections in the municipalities the way that we do right now. So to my colleagues on the Government Committee, this is undoubtedly a discussion that we are going to be having over the course of the interim. I thank Senator Pansing Brooks for the courtesy in allowing me to have this discussion and, Mr. President, I will withdraw my motion. [LB647]

PRESIDENT FOLEY: Without objection, the motion is withdrawn. Mr. Clerk. [LB647]

CLERK: Mr. President, LB647 is a bill originally introduced by Senator Pansing Brooks. (Read title.) Introduced on January 18 of this year, referred to the Judiciary Committee. The bill was advanced to General File. There are Judiciary Committee amendments pending. (AM290, Legislative Journal page 513.) [LB647]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Pansing Brooks, you're recognized to open on LB647. [LB647]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. Members of the body, I'm here to introduce LB647 today which increases salaries for judges across the state commensurate with the increase of other state employees. I'm doing this as Vice Chair of the Judiciary Committee. Specifically, LB647 increases the salary of the Chief Justice and judges of the Supreme Court. Because other judges' salaries are set as a percentage of the Supreme Court salaries, the bill also increases the salaries of the judges of the Court of Appeals, the district courts, the separate juvenile courts, the county courts, and Workers' Compensation Court. These provisions are contained in Nebraska Revised Statute 24-301.01 and it specifically provides, quote, as soon as the same may be legally paid under the Constitution of Nebraska, each judge of the district court and each judge of a separate juvenile court shall be paid a salary in an amount equal to ninety-two and one-half percent of the salary set for the Chief Justice and judges of the Supreme Court. Such salary shall be payable in equal installments. So this is a process that the Legislature engages in regularly. I have reviewed history of judges' salaries and budget increases. I want to confirm and clarify how typical these increases are. As constitutional officers, judges salaries are set at the beginning of the biennium and they have no longevity, no step increases, or any other way to supplement their income. The last biennium increase came through LB663. The figures in this bill, LB647, which amount to a 1 percent increase effective July 1 and a 1.5 percent increase effective January 1, 2019, are pretty consistent with those that were signed into law through LB663 in 2015. I also wanted to add that this year the funding increases paid through vacancy savings in the courts. Due to the age of the judiciary, the number of retirements and the time to replace judges, we have a vacancy savings that covers most of this cost, or a good portion. Senator Stinner will be able to speak more on this point. Oh, it does cover the cost. I'm sorry, it does cover the cost. Increasing these salaries is important because our judiciary is important. The weight of judges' work cannot be overstated. They adjudicate our most intense

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controversies involving our most basic rights, whether it be a civil case involving property rights or personal injury, or a criminal case implicating a person's personal liberty. Our judges' salaries must be commensurate with the work that they do. Recently there has been a real problem trying to attract candidates to fill judicial vacancies. When lawyers volunteer to serve on the bench, they give up their ability to engage in certain community and civic activities. And they usually walk away from successful careers elsewhere in government or in private practice. LB647 is intended to ensure that judges' pay is competitive in order to attract diverse and qualified candidates to serve in our Nebraska courts. I want to thank Speaker Scheer for prioritizing this bill and I also want to thank Senator Stinner for working to find a funding solution. In closing, I just want to say that ensuring judges' salaries increase at the same time as other state employees is a matter of basic fairness, even in a tough budget year. It has been the standard course for the Legislature long before our arrival here. In keeping with that standard and in keeping with our desire to attract the best and brightest to the bench, I ask you to vote green on LB647. Thank you. [LB647]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Mr. Clerk. [LB647]

CLERK: Mr. President, there are Judiciary Committee amendments. [LB647]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Ebke, as Chair of the Judiciary Committee, you're welcome to open on the Judiciary Committee amendments. [LB647]

SENATOR EBKE: Thank you, Mr. President. I want to just speak briefly about the committee amendment. The committee amendment, if you look at the original version, has X's because at the time we did not know what the numbers for the salary amounts would be. The amendment just adds those numbers. So it's a very simple technical amendment. Let me just thank Senator Pansing Brooks as well for carrying this for me. Those of you who have been around for a while will know that it's typical for the Chair of the Judiciary Committee to carry the judges' salary bill. I opted not to do that, in large part, because I have a sister who is a county court judge and I thought it would be inappropriate for me to do that. That said, I do think that as part of the larger justice reinvestment efforts that we've been asking for our county and district judges, as well as the appellate court judges to engage in, I think it's important for us to continue to at least provide them nominal increases in salary commensurate with what the rest of the state employees are getting and so I wholeheartedly support this increase. [LB647]

PRESIDENT FOLEY: Thank you, Senator Ebke. Proceeding now to debate on LB647 and the Judiciary Committee amendment, Senator Harr. [LB647]

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SENATOR HARR: Thank you, Mr. President. Thank you, members of the body. I rise in support of this amendment and of underlying bill. As a practicing attorney, the amount we pay our judges is not...I want to be very clear, it's still public service. It may not be \$12,000 a year, but this is still public service. There are first-year partners in law firms, seven years out that make this amount of money. For the vast majority of the individuals who become judges, this is a cut in pay. And if it's not a cut in pay today, it's a cut in what they'll get eventually. This is very, very important. If we want to retain good legal and competent...or competent judges, we got to make sure we pay them something, while not market value, close to market value of what they would make on the outside. So I want to thank Senator Pansing Brooks for bringing this bill and I stand 100 percent in favor of it. Thank you, Mr. President. [LB647]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Ebke. She waives the opportunity. Senator Chambers. He waives the opportunity. Senator Stinner. [LB647]

SENATOR STINNER: Thank you, Mr. President, members of the Legislature, I rise in support of LB647. The bill should proceed as would any other bill at this stage of the session. Since it has a General Fund cost by our rules it will be held on Final Reading until such time the main budget bills are passed. That's under Rule Number 8. At that time the bill will be competing for funds, if available, with every other bill that's on the A bill. The Appropriations Committee, when it makes its final budget recommendation, will try to leave a marginal amount of funds available for these bills. I further recommend that if the Legislature advances LB647, the A bill should likewise advance to provide for funding. There is nothing in our rules that gives this bill preferential treatment within our budgeting process, whereas Appropriations Committee's primary budget bill does have a priority over all other bills. In the future, should the Legislature deem that judges' salaries should have similar priority, perhaps future bill referencing should be routed...route such salary bills to the Appropriations Committee. Thank you and I urge you to vote green on both LB647 and the A bill. Thank you. [LB647]

PRESIDENT FOLEY: Thank you, Senator Stinner. Senator Hilgers. [LB647]

SENATOR HILGERS: Thank you, Mr. President, good morning, colleagues. I want to echo Senator Harr's comments regarding the judiciary. I've been practicing in Nebraska for about eight years now and have had the opportunity to work in front of and practice in front of a number of incredible judges who work...who go above and beyond to make sure that justice is served in our state. I think it's very important to support those efforts because they could go and make more money and do other things in private practice. It's important that we retain the high quality of our jurists here. It's an instrumental part, in my view, of our justice system. I think Senator Stinner has said it correctly. I support LB647 and LB647A so that we'll have the opportunity to make choices at the end of the session if there's any money on the floor. When we had the conversation

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regarding payments to child support providers, what I said then is what I'll say now, which is we want to maintain options. If we think the Legislature thinks it's important and we have the funds to do so and we think this is one of the priorities, then we ought to fund it. If there is not money, then we ought not to. So with that, I support LB647. I support LB647A when it comes up. And I want to just reiterate that we have excellent jurists here in the state of Nebraska and they deserve our support. Thank you, Mr. President. [LB647 LB647A]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Ebke, you're recognized to close on AM290. She waives the opportunity. Members, the question before the body is the adoption of the Judiciary Committee amendment. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB647]

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of the committee amendments. [LB647]

PRESIDENT FOLEY: The Judiciary Committee amendments are adopted. Mr. Clerk. [LB647]

CLERK: Mr. President, Senator Chambers would move to indefinitely postpone. [LB647]

PRESIDENT FOLEY: Senator Chambers, you're recognized to open on your motion. [LB647]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, Senator Murante offered this motion and then withdrew it. Am I going to withdraw it? Am I serious? There was a general named George S. Patton whom many people thought was deranged. And he had an expression when something was being proposed by him and they wanted to know if he was serious. He didn't say it's for me to know and you to find out. He said it's for me to know and you to wonder about. I've always, in most instances, supported salary increases for judges, and I want to give a little background on why the current methodology is in place. And as I do this, it will indicate how term limits gutted this body, this branch of government where you need people who know why, when, and how things got to be the way they are. When you come into the world, you take it as you find it. You try to navigate it, but you don't have to try to figure out why it's that way. In the old days, each category of court had to scramble and lobby to get increases on an individual basis for their particular division. The district judges would have to lobby, the county court judges would have to lobby. The Supreme Court judges would have to lobby. There was no Court of Appeals at that time, but there were what were called municipal courts and they had to lobby. So there was this patchwork activity of judges competing with others for what they've deemed to be a limited amount of money available for judicial salaries. Some would argue that the higher the court in the pecking order, from municipal court to county court to district court to Supreme Court...and many, many years ago they even had justices of the peace. They should have been called injustices because their money was based on how they handled

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cases, how many fines they could generate and so forth. I was a member of the Judiciary Committee. I didn't like the way things were being done. Others didn't. So some of us decided that there should be a formula established so that it would be predictable, it would have some degree of logic and rationality to it. It was going to be based on the notion that Senator Pansing Brooks touched on about the work of the Supreme Court. We pass laws, but the Supreme Court determines what those laws mean, whether they are constitutional, and other matters. So in a way you could say the final word on the law is the court. So the Supreme Court which sits at the pinnacle is the starting point. Then we would go down from there by stair steps and a percentage of that amount that was set for the Supreme Court justices would be the amount for the judges of the inferior courts. And when they use that term "inferior" with reference to the court system, they're not talking about quality, although they could, but that's not what it means. It means that when it comes to ranking, they are below the Supreme Court. Well, now there are no longer justices of the peace. There are no longer municipal courts, but there is a Court of Appeals which had to be put in place by means of a constitutional amendment. So now you have the Supreme Court judges, the Court of Appeals judges, the district courts, and the county courts, then juvenile court judges where there are juvenile courts. The percentage is based on what is given to the Chief Justice. Do they deserve a salary increase? You know what I feel about salaries? That's a rhetorical question. I think that there should be annexed to every office, a salary commensurate with the responsibilities, the duties, and the expectations the public have for that particular officeholder. And because of that, I was able to do something that nobody had done before me. I don't belong to either party, not Democrat, not "Repelican." I have had disputes with the person who held almost every constitutional office, but I was the one who finally got a bill through that would give a salary increase, a significant salary increase to all of the constitutional officers. In the same way that Nixon, because of his proclivities, was the one who could begin a thaw between the United States and China, I was the one who, because of my lack of baggage, could engineer a salary increase for the constitutional officers. I had had many disputes at that time with the Governor, the Attorney General, and I won't go down the list, but primarily those. The bill was enacted. I told people at the committee level at the hearing, I don't even look at who is holding the office. I don't care who is holding the office when we're establishing a salary. Whoever is in that office is not going to be there forever. We want people to consider taking these offices if they have the capacity to do the work, but don't make it look like a throwaway position where you're looking for volunteers, or people with nothing better or different to do. So we increased those salaries. When it comes to the judges, I would concur with the statements made thus far about what is needed in terms of an adequate salary because of what you want to find in a judge. Many of the comments made were aspirational. They are not indicative of what the judges actually are right now. They are not factual statements, nor are they adequate descriptors of some of the lunkheads who sit on the bench. Judges are appointed by the Governor. The Governor does not always have an objective view when he or she is making judicial appointments. These people are recommended, a certain number are recommended to the Governor and if you want to, you can look that up. It's not complicated, but I don't want to

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waste time on that. You get a variety of people. Some have what's known as a judicial temperament, others don't. Briefly, the judicial temperament would be based, first of all, on knowledge and training in the law. You want experience, but as a judge, that can come only by being a judge. No judge has experience of a judicial nature until he or she becomes a judge. The hardest level at which judges sit--there are two of them--the district court and the county court. Those judges, however complicated a case may be, even if it's beyond their ken or knowledge, k-e-n, they have to make a decision. They cannot do like the Legislature and say, not voting. They have got to decide. But because it's known that a correct decision is not always going to be made at the trial level, there were appeals processes put in place. A wise litigator creates the most thorough record possible at the trial court level because the only thing an appeals court can look at is what the lower court ruled on. A litigator cannot withhold certain issues and determine that when he or she gets to appeal, the Supreme Court will look more favorably. [LB647]

PRESIDENT FOLEY: One minute. [LB647]

SENATOR CHAMBERS: That's not wise, because the appeals courts, the appellate courts act in just the way that their title indicates. They look only at what was decided by the lower court. If it was not decided by the lower court, the appellate court will not hear it. They do not take evidence. They do not conduct trials. The evidence must be presented at the trial level, whether it's to a jury or to a judge. Mr. President, I'll stop and then pick up when I am recognized. [LB647]

PRESIDENT FOLEY: Thank you, Senator Chambers. Debate is now open on LB647 and the motion. Senator Krist. [LB647]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues. Good morning, Nebraska. I support LB647 now and throughout. If I could be here for another eight years, I would look also at continuing this process of evaluating where the pay scales are and evaluating increases as they are necessary. I support LB647. One of the toughest things that I've had to deal with since I've been here is the realization of how the system works, the three branches of government and how a judge's mind actually functions and how they function in terms of part of that three branches. You see, you can't tell a judge what to do. It's judicial discretion and judicial independence that they are so proud of. Those of you who were here two years ago understand that I spent over six months negotiating with the Chief Justice over the continuation of the Justice Reinvestment Program. When a judge draws a line in the sand, particularly our Chief Justice who is a good man, a fabulous leader and a wonderful manager, but managing this group of judges, any group of judges is like herding cats. But I have to speak today on another issue and that is the constitutional requirement to require our kids to go into court and have proper representation. This would be the preview of what comes. I've been told by the judicial branch

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that we are not to touch any of their cash funds because they're already extended as far as they can in order to help pay for what is perceived, perceived to be an increase to cost in the counties. I'm going to present evidence when we're talking about that particular bill that shows you that Douglas and Sarpy County are actually saving money by getting a lawyer into the courtroom the first time the child is there, the juvenile is there, because there is not a repetitive process, there are less times in front of the court, etcetera. There's active evidence to that effect. So I'm going to allow conversation to go on between...I have no reason or no power to stop it. But I'm going to allow conversation to go on. In fact, I'm going to encourage conversations to go on between the rural senators, members of the Judiciary Committee, especially I would encourage you to come talk to me. And let's talk fact, not what you're hearing. There are two popular reasons why giving constitutionally required representation to a kid would be unpopular in this state. One, there's not enough lawyers in your county--bogus. There's a way to make that work. Two, it's going to cost your county more money--bogus. We've got data, not just invented data. We have real data from Lancaster County and testimony that shows they are saving money because they're bringing the kid in. How much time do I have left, Mr. President? [LB647]

PRESIDENT FOLEY: 1:20. [LB647]

SENATOR KRIST: I have enough time to tell this quick anecdotal story, which is not anecdotal at all. It's actual fact. A judge sitting in a small town area in rural Nebraska has a child come before him who has committed a crime. His parents are there. His parents say, we can't afford this. You just go in there, plead guilty and let's get this over with. And he does. He does just that. I want to go back to school. I want to go back to playing football. I need to get back in my pick-up truck and go do my thing. That's a great kid thing. So plead guilty and off you go. And the judge looks at him afterwards, after it's all over and says, were you planning on going to college? Were you planning on being a lawyer or a doctor or a police officer? Were those your long-term plans? You better change them because this is on your record now. That's the kind of representation that two parents can give a child without legal training. I know lawyers that are in this room that have said publicly time and time again, they wouldn't even go into court with their kids having the training that they do because sometimes juvenile court is a specialized trip. And we'll have more conversation on this. Thank you for listening. Thank you, Mr. President. [LB647]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Chambers. [LB647]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, Senator Krist stole some of my thunder. I'm working my way around to the very thing he talked about. To have this judicial temperament, the knowledge, the understanding, and actually a love of the law. Then once on the bench, the judge must be dispassionate, objective, and no respecter of persons in the

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sense of not determining the outcome of the trial on the basis of who is standing before the judge. Disregard wealth, disregard status, disregard impoverishment, disregard lack of status and be fair and even-handed, which most human beings are totally incapable of doing. So those are aspirational goals, which are rarely, if ever, found in the real world. If you sit in any courtroom long enough to see different types, categories and classes, if you will, of people come before the same judge, you will see the demeanor of the judge change based on who is standing before that judge. There may be a look of intense concentration following every word. Then a look of boredom, then a look of disgust, a look of not caring, an attitude of impatience. And you'll wonder, if this is where you have to get justice I hope I never come here as a poor person without a friend. The law should be the friend of those who have no friend anywhere else. Not meaning that the law is going to be bent in a favorable way. But it's not going to be twisted and perverted in a negative way to punish people for what and who they are rather than for what they have done. If you can find people who approach that standard, you have somebody with the makings of a good judge. I'm afraid that the people sitting on the benches of courts in this state don't measure up to that standard. Senator Krist touched on it. There is no way I could be a judge. I don't care at what level. Even if it meant I would ultimately be drummed out of that position that I could know that young people at the most vulnerable time in their life will come before the bar of so-called justice without legal representation. You all...again, I'm going to throw your religion at you. You've heard it said, as the twig is bent, so the tree will grow. While young people are impressionable, while they're developing, while they're trying to find their way through life, you heard the story that Senator Krist gave you. The child thinks with a child's mind. The child does not have the experience of an adult. The child looks at this moment right here and there may be instant gratification or instant punishment. If it's punishment, get through it and out of the way. If you're looking for gratification, you might wind up on drugs, sex, and all the other things that are out here waylaying these young people. When these children come before these judges, no judge should say that... [LB647]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: One minute. [LB647]

SENATOR CHAMBERS: ...this child is going to be without a lawyer. I am going to be at this point in loco parentis. I am going to stand in the place of a parent and I'm not going to decide the case right now, but I'm going to make sure this child is treated the way a child would be treated if he or she had a knowledgeable parent who cared about that child's future, not just convenience for the moment. And I would be pushing my brothers and sisters of the robe to do something which they can do to ensure that no child will come before any judge without legal representation. And I'll wait until I'm recognized before I proceed on that. Thank you, Mr. President. [LB647]

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SPEAKER SCHEER: Senator Chambers, you're next in the queue. There were no others. Would you like to close or would you like to use your last at mike? [LB647]

SENATOR CHAMBERS: I want to speak and then close because as I always say, we don't know when an unkind fate is going to intervene. We breathe out and never breathe in again. So lest I croak without having the chance to finish, I want to finish it, as much of it as I can. [LB647]

SPEAKER SCHEER: Very good. 5:00. [LB647]

SENATOR CHAMBERS: Members of the Legislature, we enact laws. We criminalize conduct. Nebraska is not a common law state. That means forget common law crimes. They don't exist in Nebraska. Nothing in Nebraska is a crime unless the Legislature declares it to be one by passing a law. That's how crimes are created. Since we create the crimes by criminalizing conduct, we do not enforce the law. We can discuss what we think the law should mean in a court, but we don't interpret the law either. Sometimes through our legislative history, which is compiled by our discussions of that particular provision in the committee and on the floor during debate, if something is vague, if something could have more than one meaning, then the court will look at the legislative history to try to determine what the Legislature was intending to accomplish by that piece of legislation. That's how we might have an impact. But ultimately the judges will do that. What we can do is say in the law that our children are not lesser than any human being who happens to be above such and such an age. In other words, the mere fact that this is a child does not mean constitutional rights, which are deemed sacred, should not be extended to that child. More so to the child than others because the child is utterly helpless. The child is utterly defenseless. The child is totally vulnerable. The child is at the whim of any and every stronger force that might be brought to bear on that child. So we have an obligation to protect these children. And if the judges are not going to assume that responsibility, then we have the obligation to assume it. That means putting in law, a mandate that no child is going to be before a judge where a punishment can be inflicted without legal representation. Who in here would want to go to court without legal representation? Why don't you want for your child what you'd want for yourself? I'm going bring us back to what we talk about on this choose life nonsense. This pro-life nonsense. We have going on in this state right now activities in courtrooms that are destroying these children's chance for a decent future because things are being done to them that they don't understand. They don't understand what's happening and they certainly don't understand the future consequences and ramifications. And we come here and we sit or stand and talk and when it's politically feasible, you'll talk about children. You'll talk about fetuses, zygotes, and embryos. But when there are children, suddenly you don't care anymore. And that should not be. Why do you think Jesus spent so much time with the little children, elevated them above everybody else? When his disciples said, take these children away, Jesus said hold on, no. You'll go away before these children will go away. [LB647]

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SPEAKER SCHEER: One minute. [LB647]

SENATOR CHAMBERS: And those things sound nice when they're preached about in church. We can do something for these children and we won't. But you're going to talk on these tax bills, do something for the farmers, the ranchers, big business people, rich people. You're going to jump to attention and do what they dictate that you do, but the children who need you the most will be sacrificed. That is unconscionable. That is reprehensible. If there were such a thing as an unforgivable sin, that should be it. Don't talk to me about a fertilized egg being a full-fledged human being and, therefore, you care about it and these full-fledged children who are not its but hes and shes, you don't care. I'm not sure that I'm going to support this bill to give these judges... [LB647]

SPEAKER SCHEER: Time, Senator. [LB647]

SENATOR CHAMBERS: Thank you, Mr. President. [LB647]

SPEAKER SCHEER: Thank you, Senator Chambers. Seeing no others...excuse me, Senator Schumacher, you're recognized. [LB647]

SENATOR SCHUMACHER: Thank you, Mr. Speaker, members of the body. Senator Chambers raises an issue that we went over last year. And it all begins to relate back to how we want to conduct the affairs of the state. Originally our juvenile laws were set up to handle offenses by basically juveniles, kids under 16 or 18 years of age. It became an expensive proposition sometimes because of the nature of the juvenile proceeding, the requirement that the parents be there, or at least notified they can be there, the child be there, that there be guardian ad litem, and that there be attorneys appointed and everybody had a lot of expenses. And in most cases, particularly in rural cases, the rural counties, the cases were kids with cans of beer, fairly minor things, which probably didn't belong in a court system anyway and in an earlier age were resolved by the policeman just telling the kid to pour the beer out. The next time I see with you it, I'm going to take you to mom and dad because mom and dad maybe cared in those days. But in this age, it seems that a way to maybe resolve some of these issues is proper funding of diversion programs so they never engage the juvenile system to begin with, and then maybe beefing up the procedures once the official system is engaged at a court level. But when we look at that, what happens? We get on our high and mighty horse and say, okay. You shall provide counsel. And, counties, you shall pay for it. And since you don't have any other source of revenue, you shall use your property taxes to pay for it. We're not going to pay for it because, well, because we don't want to be the ones raising taxes. We don't believe in using our taxing authority to pay for the expenses of government. We believe in cutting government. We believe that the function of the Revenue Committee is to cut taxes, not raise revenue. We believe that

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everything should be cut to the bone and then cut deeper, maybe even an amputation or two wouldn't hurt. And so this all ties back to money, surprise, surprise. And Senator Chambers is right. We'll give away all kinds of money if you got the right label on you, or threaten to leave the state, or not grow here, or whatever is the vogue of the day for getting a check out of the Legislature. But when it comes to raising revenue for what we say is a good idea and then sending a check with the good idea, uh-uh. We'll send a mandate instead. We're going to have some really fun discussions in the next few weeks over what is the obligation of government, over taxes and the purpose of taxes, over whether or not we're better off without taxes in government than with taxes in government. Those are serious discussions. This discussion we're having this morning is a microcosm of the discussions that we will have. Senator Chambers is right. The folks who want diversion programs are right. But they come with a cost. [LB647]

SPEAKER SCHEER: One minute. [LB647]

SENATOR SCHUMACHER: That cost we can mandate the counties to raise from property taxes or if we think it's such a great idea, we could send a check with it. But so that check doesn't bounce, we've got to raise taxes because our cash reserve is going really, really fast. This is not going to be fun. Thank you, Mr. Speaker, members of the body. [LB647]

SPEAKER SCHEER: Thank you, Senator Schumacher. Senator Kolowski, you're recognized. [LB647]

SENATOR KOLOWSKI: Good morning and thank you, Mr. Speaker. And I would like to yield my time to Senator Chambers, please. Thank you. [LB647]

SPEAKER SCHEER: Senator Chambers, 4:45. [LB647]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Kolowski. Members of the Legislature, I'm taking the time on this bill, the issues that I'm raising cannot be addressed directly by means of this bill, but this bill is an attention getter for the judges because it relates to their money and they want to know how much they're going to get. But by me speaking while I have their attention, they might pay attention to something other than that money and they need to be made aware of the fact that while I talk about the power of the Legislature to enact laws to protect children, I can have some impact on whether the judges get a salary increase. I have not in the past made it a practice to give or withhold the salary increase on the basis of the conduct of the ones who will receive it. Others do that. But while I'm touching on that, let me mention something that the Exec Board did yesterday that I think is really appropriate. It's good. It shows some regard for our staff and that's to give those two days around Easter egg holiday or boiled egg bunny rabbit day, whatever it is, give them two days. You all have no idea where that

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originated. It's always been--no. You know who was the main driver of that? The one talking right now. There are so many things that people take for granted that I'm responsible for that you wouldn't believe it. And you know why you don't believe it? You hear certain things I say that you don't like and that's what you make a total judgment by and as a result, you misjudge. I want the judges to understand that there is at least one person looking at what they are doing and how they do it. For years I have prevented the addition of a juvenile court judge for Douglas County because of that incompetent, lacking in judicial temperament person whose name I won't give because she's not my target at this moment, hoping that denying another judge would lead other judges to take action to get her off the bench on the basis of her poor performance. It didn't work. A point had to be reached where that tactic had to be laid aside because it was hurtful to the children, the very ones I was interested in helping, by not having adequate judicial resources to keep their cases from languishing for indeterminate periods of time. Maybe I should do that with the judges' salary increases and see how long it will be before they awaken. I wouldn't feel comfortable doing it. So right now I'm wondering what I will ultimately do. But I know when it comes to these children being protected what I will insist on. And again, I'm one person. But the ability and influence of one person can be magnified exponentially, depending on how bold that person is, how determined that person is, how resourceful that person is, how much that person is willing to risk if that's what it's called in terms of the ire of colleagues by slowing down or gumming up the works of the Legislature... [LB647]

SPEAKER SCHEER: One minute. [LB647]

SENATOR CHAMBERS: ...in order to focus proper attention on a serious issue. You could state this almost as a truism: A hard life makes a hard man. But even a hard man when dealing with children can be softened even though he has no heart. The tin man who didn't even have a metal heart could be made to think softer thoughts when they involved children. So it should not be peculiar that I would have the concern for children that I do. And it's not because I have a heart. If I had a heart, it wouldn't be soft. It's because I remember what it was like when I was a child. I remember the fears, the depression, the anxiety, the uncertainty about almost anything... [LB647]

SPEAKER SCHEER: Time, Senator. [LB647]

SENATOR CHAMBERS: ...that could happen to me at the hands of adults. Thank you, Mr. President. [LB647]

SPEAKER SCHEER: Thank you, Senator Chambers and Senator Kolowski. Senator Williams, you're recognized. [LB647]

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SENATOR WILLIAMS: Thank you, Mr. President, and good morning, fellow colleagues. First of all, I appreciate Senator Krist and Senator Schumacher teeing up the discussion that we will be having which will be very important for this state on representation of juveniles. And very honestly, I will tell you I don't care what you believe...I do care, but whether you believe juveniles should have representation or not, we have an untenable situation right now where we have representation by geography in our state, which makes no sense. So I look forward to that debate as we go forward on another bill. This morning I'm rising in opposition to Senator Chambers' indefinitely postpone motion--I don't think that's any surprise to the senator--and in support of LB647. Senator Hilgers and Senator Harr talked about the importance of judges, the demeanor of judges. I would remind everyone in this body how difficult it is for us during certain periods of time to have to make that hard decision and push that red/green button, the only two options we have. And that means we don't have a "maybe" button on that dial to look at. The judges don't either. It's a tough job. For those that have taken on that responsibility, they need to be financially rewarded in a meaningful way. I also wanted to point out that having several friends who have had the opportunity to currently be judges, most judges give up their personal life also when they make the decision to put on that robe. It's a difficult thing where they've gone from maybe being into an involvement with a social life that is different, and once you become that judge...and I would again equate that a little bit to each one of the senators, when you are now labeled a senator when you go home and you go to the grocery store or you go to the restaurant, you remain being a senator. So I fully support this increase and I would yield the balance of my time to Senator Chambers. [LB647]

SPEAKER SCHEER: Senator Chambers, 2:35. [LB647]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Williams. I'm just about through with what I want to say or intend to say this morning. I was telling you how it doesn't take a heart to have a feeling for children. You have a brain. And a part of that brain allows you to remember things. It's called memory. When I think of how much mental anguish I suffered as a child, I don't want anybody, child or adult, to feel the things that I felt, to think the thoughts of terror that I thought...in short, nobody should go through what I went through as a child. When you are a small person, there are things you are forced to contend with that no small, alone, vulnerable person should have to deal with. And those experiences go a long way toward making us what we become in later life. I will never turn my back on anybody who has no friend but who needs one. The last, the least,... [LB647]

SPEAKER SCHEER: One minute. [LB647]

SENATOR CHAMBERS: ...the lost, and that often are the categories...those are the categories our children find themselves in when they go into courtrooms. Courtrooms are not friendly

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places, even to adults. So just think about what it is for a child, if you haven't lost all of your ability to be empathetic. I appreciate Senator Kolowski and Senator Williams giving me time. I will use my five minutes to close, but like General Patton said, you still are going to have to do a little wondering about how I will ultimately deal with my pending motion. Thank you, Mr. President. [LB647]

SPEAKER SCHEER: Thank you, Senator Williams and Senator Chambers. (Visitors introduced.) Returning to floor discussion on MO73, Senator Chambers, there is no one left in the queue. You're welcome to close. [LB647]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I have always had a strong feeling of respect for the judicial system, even though there were people serving as judges for whom I had no respect, and on more occasions than maybe, the Judicial Qualifications Commission itself in as compressed a period of time, I've managed to have more judges disciplined for misbehaving, not that I hated judges, but I loved the law more. Some were reprimanded, some suspended, one was kicked off the bench entirely. And the misconduct was known by others where all of these judges were concerned, but nobody decided to take any action. Not one of these judges...well, I won't go into that. I don't want to take too much time and be distracted from what I want to say. There are three branches of government: the legislative, executive, and judicial. The Legislature doesn't have to hustle money to pay for our operations. We raise revenue. The executive doesn't have to hustle money--maybe to run for office, but in terms of running their offices. They come to the Legislature. The most critical branch of government is left to do the demeaning work of raising money through fees to pay the costs of the essential work that's done by the judiciary. I don't want to see the courts supported by way of fees, by means of fees. They should be supported from General Fund appropriations. And I'm going to keep trying to get that accomplished while I'm in the Legislature. It probably will never happen. But I thought there would never be a vote by this Legislature to abolish the death penalty, and I certainly didn't think there would be enough people of strong mind, will, character, and conviction to override a threatening Governor's veto. But those things, which I thought would never happen, did happen, and while I was working to try to achieve it, I worked as though it could be done, but I couldn't do it alone. There were senators who were in agony during those hard days that we were considering that. I saw senators almost with tears in their eyes. They were struggling. Then I was very offended when the Governor said they're voting that way to follow Senator Chambers. They were voting that way because they had very strong, deeply held convictions that overcame their fear that they acknowledged, some of them, that they had in order to do the right thing. So using that by way of an analogy, I doubt that the courts will ever be underwritten by means of General Fund appropriations, but we never know what actually will not happen just like we never know for sure what will happen. So we work to do everything that will prepare the way for it to happen. We may strike the right chord, or we may reach somebody else who knows how to strike the right chord. But in any case, we cannot sit back.

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We've got to put forth that effort to bring about what it is we think should take place. And that's what I intend to keep doing. And now I'm going to satisfy your curiosity if you had anything. You don't have to wonder what I will do. I will now show you. Mr. President, I withdraw that motion. [LB647]

SPEAKER SCHEER: Without objection, so ordered. Thank you, Senator Chambers. Seeing no one in the queue, Senator Pansing Brooks, you're welcome to close on LB647. [LB647]

SENATOR PANSING BROOKS: I just want to thank everybody for their patience and their discussions today. I appreciate the passion of my colleagues regarding another issue that's very important--right to counsel...juvenile's right to counsel that will come before this body. And with that, I close. Thank you, Mr. President. Hope you'll vote...(microphone malfunction.) [LB647]

SPEAKER SCHEER: Thank you, Senator Pansing Brooks. The question before us is advancement of LB647 to E&R Initial. All those in favor please vote aye; all those opposed please vote no. Have all voted that wish to? Please record. [LB647]

CLERK: 31 ayes, 0 nays, Mr. President on the advancement of LB647. [LB647]

SPEAKER SCHEER: LB647 is advanced to E&R Initial. Next item. [LB647]

CLERK: LB647A by Senator Pansing Brooks. (Read title.) [LB647A]

SPEAKER SCHEER: Senator Pansing Brooks, you're welcome to open on your LB647A. [LB647A]

SENATOR PANSING BROOKS: Thank you, Mr. President. Again, this is just the A bill that follows the payment for our judges who are so important to our state. I wanted to add a quote that came from Chief Justice Heavican when he testified in front of the Judiciary Committee. He said: In recent years we have asked our judges to take on additional responsibilities. Many of our judges run drug courts or other problem-solving courts including, most recently, veterans courts. He goes on to say: Indeed the entire community corrections solution to our state's prison overcrowding problem designed to save taxpayers hundreds of millions of dollars, to a large degree, rests on the good judgment and hard work of our judges. And he talked about that the ability to attract good lawyers and retain good lawyers depends, in part, on the salary increase. So with that, I close and ask you to vote green on LB647A in support of the increase to judges' salaries commensurate with the rest of the state salary increases. Thank you, Mr. President. [LB647A]

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SPEAKER SCHEER: Thank you, Senator Pansing Brooks. Floor discussion. Senator Chambers, you're recognized. [LB647A]

SENATOR CHAMBERS: Thank you. Mr. President, and members of the Legislature, Senator Pansing Brooks, I've talked about wanting to see the judiciary supported by means of General Fund appropriations rather than hustling fees. On occasion on this floor I've said that I want to raise money and I will match dollar for dollar anybody who would contribute. I have in my hand what's described or denominated as a Federal Reserve note of the United States of America, otherwise known as one dollar. These words are under the two words "The United" in the slogan "The United States of America." This note is legal tender for all debts, public and private. There is a debt owed to the judiciary. The work that the judges do, I will match dollar for dollar every dollar donated by my colleagues that would go toward compensating the judges, and since I know my colleagues so well, there should be a start. This is the amount that will be raised--one dollar. I know I'm safe on this one. But it was at least my effort to practice what I preach. Thank you, Mr. President. [LB647A]

SPEAKER SCHEER: Thank you, Senator Chambers. (Visitors introduced.) Moving back to discussion, Senator Krist, you're recognized. [LB647A]

SENATOR KRIST: Thank you, Mr. President. Again, good morning, colleagues. Quick note, I'll stick to the subject matter again...or this time, this morning. I support LB647A, and I think that in my dealings with the judges in the eight years that I have been here, I couldn't find a finer group of people, as long as I didn't disturb their judicial discretion or their independence, which is what I rely on them for in day-to-day life. I particularly want to tell you that I have a great deal of admiration for those judges who think outside the box. People like juvenile court Judge Johnson in Douglas County who has a dog that he brings to his courtroom to calm and appease the child and make the youth feel more comfortable. And he will be a lead factor in a problem-solving court called family court, which will deal with the family as a family unit trying to keep them together, whether it be divorce, drugs, children's issues, foster care, the termination of parental rights, which is an extremely dramatic time for a child, for whatever reason. So do they earn their money? Absolutely. I particularly, again, would praise people like Judge Johnson, who are just a little bit outside the box in order to fix the problems that we have in this state and particularly with the juvenile court, juvenile court justice. And to make one other point that Senator Williams made this morning, I'm co-chair of the Juvenile Detention Alternative Initiative in this state along with Mr. Corey Steele. And one of the things that you learn from the Annie E. Casey Foundation and from the MacArthur Foundation and all those that are evidence-based processes that we have incorporated in this state over the past few years is the thing that we should be most ashamed of, most ashamed of, is if we are not affording every child in this state justice, no matter where they live. The coin phrase for Annie E. Casey is no justice by geography. Thank you, Mr. President. [LB647A]

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SPEAKER SCHEER: Thank you, Senator Krist. Seeing no others in the queue, Senator Pansing Brooks, you're welcome to close. [LB647A]

SENATOR PANSING BROOKS: I'm going to waive. [LB647A]

SPEAKER SCHEER: Senator Pansing Brooks waives. The question before us is the advancement of LB647A to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB647A]

CLERK: 31 ayes, 0 nays on advancement of the A bill. [LB647A]

SPEAKER SCHEER: LB647A is advanced to E&R Initial. Items, Mr. Clerk. [LB647A]

CLERK: Thank you, Mr. President. An amendment to be printed to LB512 by Senator Morfeld. The Executive Board reports LB445, LB530 as indefinitely postponed. Enrollment and Review reports LB172, LB276, LB217, LB487, LB417, LB376 and LB75 have been reported to Select File, some having Enrollment and Review amendments. And finally, Mr. President, a conflict of interest statement filed by Senator Wayne. That will be on file in the Clerk's Office. That's all that I have. (Legislative Journal pages 934-935.) [LB512 LB445 LB530 LB172 LB276 LB217 LB487 LB417 LB376 LB75]

SPEAKER SCHEER: Thank you, Mr. Clerk. Next item.

CLERK: Mr. President, LB152 is a bill by Senator Craighead. (Read title.) Introduced on January 9, referred to the Government, Military and Veterans Affairs Committee. The bill was advanced to General File. I have no amendments to the bill, Mr. President. [LB152]

SPEAKER SCHEER: Senator Craighead, you're welcome to open on LB152. [LB152]

SENATOR CRAIGHEAD: Thank you. Good morning, Mr. President, colleagues, and citizens of Nebraska. I come before you today to introduce LB152, a bill that relates to the register of deeds documents and recording fees and strikes a January 1, 2018, termination date enacted by LB14 in 2012 that provided funding for preserving, maintaining, and modernizing public records in the county register of deeds offices. LB14 was introduced in 2012 to provide much-needed funding for the preservation and modernization of records filed in the register of deeds offices. County officials, the Realtors Association, and the Secretary of State supported the bill. It was categorized as a user fee paid by filers rather than property taxpayers subsidizing technology and preservation of records. LB14, the past bill, also increased the fees paid to the Secretary of State

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for recording documents under the Federal Lien Registration Act and Uniform State Tax Lien Registration (and Enforcement) Act. The fees are corrected when instruments such as deeds, wills, and other instruments are filed with a register of deeds. The cost for filing is \$10 for the first page and \$6 for each additional page. Of that fee, \$2.50 for the first page and \$0.50 of the \$6 fee for the remaining pages is earmarked for the preservation and modernization fund. These filing fees are separate and distinct from the documentary stamp tax. The fees cannot be substituted for expenditures from the county general funds, so counties continue to support existing records preservation and maintenance measures. As mentioned earlier, LB152 would strike a January 1, 2018, termination date on the fees. The sunset was included in LB14 in 2012 to provide a point to evaluate the uses and continued need for the funds. There will be some register of deeds who did present in committee and show how the funds had been used and the wish list for future funds. If the sunset date is not removed, the fees would return to the pre-2012 levels of \$5 per page for recording a document plus \$0.50 for indexing each lot in single block without lots in platted areas and \$0.50 for each section in unplatted areas. Needless to say, the \$0.50 calculation was confusing to filers. Registers of deeds often needed to follow up and collect more money or return overpayments after it was used. I urge your favorable consideration of LB152 and ask for your green vote. [LB152]

SPEAKER SCHEER: Thank you, Senator Craighead. Senator Lowe, you're recognized. [LB152]

SENATOR LOWE: Thank you, Mr. President. The only thing I can say is great minds think alike. I brought a very similar bill to Senator Craighead's, LB369, and since she was first up and since was a lady, I decided to yield to her. Our register of deeds brought this to me and she said prior to the way that it is now, it was very confusing. They would get documents in. They would get a check with it. The check would be...and they would recount the pages. The pages would be off, so they would have to send back a check for the money. Or the pages would be off the other way, and they'd have to have another check sent. It delayed things and it just slowed things down. The way it is now, and the way that this LB152 will be, will speed up things in the register of deeds. It also helps them immensely keeping current with technology. This is a good bill, and I support this bill. Thank you, Mr. President. [LB152 LB369]

SPEAKER SCHEER: Thank you, Senator Lowe. Seeing no others in the queue, Senator Craighead, you're welcome to close on LB152. [LB152]

SENATOR CRAIGHEAD: Thank you, Mr. President. I would certainly appreciate your green vote on LB152. Thank you. [LB152]

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SPEAKER SCHEER: Thank you, Senator Craighead. The question before us is advancement of LB152 to E&R Initial. All those in favor please vote aye; all those opposed please vote nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB152]

CLERK: 30 ayes, 0 nays, Mr. President, on the advancement of LB152. [LB152]

SPEAKER SCHEER: LB152 is advanced to E&R Initial. Next item, Mr. Clerk. [LB152]

CLERK: LB300, a bill by Senator Krist, relates to civil procedures; it eliminates the statute of limitations on civil actions for sexual assault of a child. Introduced on January 12, referred to the Judiciary Committee; advanced to General File; no committee amendments. I do have an amendment to the bill from Senator Krist. (AM860, Legislative Journal page 908.) [LB300]

SPEAKER SCHEER: Senator Krist, you're welcome to open on LB300. [LB300]

SENATOR KRIST: Thank you, Mr. Speaker. And, Speaker, I would ask you to indulge me and just put up the amendment, AM860, at this point, and I will open on the amendment because it is a white copy and it becomes the bill. [LB300]

SPEAKER SCHEER: Mr. Clerk, we will move to AM860. [LB300]

SENATOR KRIST: Thank you, Mr. Speaker; and colleagues, good morning; good morning, Nebraska. LB300 advanced from the Judiciary Committee on a 7-0 vote; one colleague was absent during the vote, Senator Chambers; and I have doubled back with him and I'm sure he will make comments if he wishes to, but he is in support. I want to thank Chairperson Ebke and the committee for advancing the bill. And I want to thank Speaker Scheer for selecting it as a Speaker priority bill; thank you very much. LB300 eliminates the statute of limitations on civil actions for sexual assault of a child, thereby giving the victim or victims an opportunity for closure and for justice. The amendment, AM860, addresses some technical issues necessary to effectuate the intent of the bill more recently brought to our attention...my attention, and thank you, Tim Hruza, our legal counsel for his help on this issue. Most notably, the amendment would adjust the language of the bill to ensure claims for sexual assault that may have been made previously, time barred by an earlier statute of limitations are allowed. The language provided in the amendment is modeled after language passed by the Utah legislation on the same matter in 2015. Under this language, an individual who has previously suffered damages for sexual assault as a child but whose claims were time barred under a previous statute of limitations would be able to bring their claim within 35 years of the 18th birthday, or within three years of the effective date of the legislation, whichever is later. This means that a victim who has reached the

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age of 33 and is therefore barred from bringing suit against or a current statute could bring suit against their offender until the 53rd birthday. If the victim has already reached the age of 53, he or she can still bring suit as long as it is filed within three years of this bill's effective date. Let me tell you why this is important. Imagine that you're a young man or woman, but I'll use a young man as an example, and there is a very rich man in the neighborhood, has the power to give you a job, has the power to take you to places that you would normally not go, and then takes advantage of you sexually. You're a proud young man. You actually play on the baseball or football team for one of the best known schools in the Omaha area. You don't want to share that story with your friends, but as you become older and you realize what this is doing to your psyche, PTSD, sleepless nights, whatever those causes...whatever the effect has caused, you have to deal with it. And you feel the only way to deal with it is to confront the situation. But your time is up. Because now you're an adult, and you've reached the end of the statute of limitations, and you can no longer find closure on this issue. That's wrong. This is a civil matter. I will emphasize civil, not criminal. A civil matter that would solve years of anguish, pain, and torture. It's the right thing to do. I'd be happy to talk to any of you about the parameters and the technicality of how this goes retroactively and forward and gives people more time. But I think you can understand that if you put yourself in that young man's place, it took him years to get to a point where he was willing to talk to his friends, and when he talked to his friends, by the way, in this particular case I'm speaking, it's between 40 and 50 kids over a 30-year period that experienced the same sexual abuse from the same individual. Think about that for a minute. If we want to stop that sexual abuse, we have to break the chain. We have to say enough is enough, and sometimes we don't have it inside of us to do it until we're truly adults. It's a good bill. It's a good way to go about it. My friends, I ask you for a green vote on AM860 and LB300. [LB300]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Blood, you're recognized. [LB300]

SENATOR BLOOD: Thank you, Lieutenant Governor. Fellow senators, friends all, I stand in support of both AM860, LB300. I feel today that this bill is a just cause and that Senator Krist is a noble senator for bringing this forward. One of the things that I always do when I research is I look at the Statement of the Intent. And I noticed in the Statement of Intent it used the word "justice." That always concerns me because justice has different meaning for many people, based on the color of your skin, your income level, where you live. So what I look for in a bill when I see the word justice, is I look to see is it truly a just bill? Is it truly equitable, excuse my voice, and is it righteous? And, indeed, this is a righteous bill, because what it's going to do is give survivors that might have remained voiceless a voice. This civil litigation is going to enable the cost of care for victims be placed on those that committed these horrible crimes and not the taxpayers. But most importantly, it clearly identifies these predators that are here in Nebraska communities. And so I stand today, again, in support of both the amendment and the bill. I thank

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Senator Krist. Truly, I'm sincere when I say this is a noble cause; and you, sir, are a noble person. [LB300]

PRESIDENT FOLEY: Thank you, Senator Blood. Senator Kolterman. [LB300]

SENATOR KOLTERMAN: Good morning, colleagues. Thank you, Mr. President. In all honesty, I don't know if I can support AM860 as the bill. I can tell you this, that it's despicable what occurs when this happens. I happen to be a member of a church that it happened in, and it's been probably 15 years ago now, and one of the perpetrators committed suicide. The other one is still around. We worked through it as a church. There has been lawsuits that have been taken care of. I think these people ought to be punished. And I think moving forward, the statute of limitations ought to be changed, but in my particular case in our church, we've been able to work through it as a community, it affected the whole community. I will tell you this, that it's always going to be there, it broke up families, it broke up churches, and yet, we've worked through it. So my concern, really, is with the statute of limitations for the previous, for the past. Do we open it up so that now anything that's ever happened ever, we eliminate that statute of limitation for the past? I can't tell you how I'm going to vote on this. This is a very, very, very difficult situation. I have mixed emotions about it. I applaud Senator Krist for bringing the bill. I'm just a little bit concerned about the amendment and how it's going to affect some of the people that have been involved, that have worked through the process. So with that, I would yield the rest of my time, I think Senator Hilgers might have some time to speak on this, so I would yield the rest of my time to Senator Hilgers. I think he's going to talk about the constitutionality of the amendment. [LB300]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Senator Hilgers, you're also next in the queue, so we're going to set the clock for eight minutes. [LB300]

SENATOR HILGERS: Thank you, Mr. President; thank you, Senator Kolterman. Thank you, Senator Krist, for bringing the bill and for your eloquent statements and description of the problem that's trying to be solved through LB300. I rise primarily to discuss AM860. I'm currently undecided about LB300. There certainly is a principle in the law, this notion of repose or limitations, which is that we want to give plaintiffs or victims or people who have been harmed a long enough opportunity to seek redress for those harms. At the same time, it's also important in our jurisprudence to give defendants or accused wrongdoers an opportunity for repose. In other words, for an opportunity to know that their life can go forward without being accused of wrongdoing. Because, of course, an accusation of wrongdoing isn't the same thing that wrongdoing actually occurred. So we constantly balance this for all sorts of crimes, and it matters...well, crimes and civil actions. And that's the balance, I think, we're weighing here with LB300--should we extend the limitations period out so that a suit can be brought on the civil

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side, this is not criminal, on the civil side, out extended into the future with no date limitation. I think that's one question. There's a second question, though, and this, I think, raises some constitutional issues and questions that I have is the second aspect which is a retroactive effect, which is what is in AM860. In other words, what it does, as I understand it, is it opens up the repose period. So for individuals who have already passed the limitations or repose period, you'll hear those two terms used, by the way, and they're not technically identical, but they are synonymous, so if you hear statute of repose or if you statute of limitations, essentially means the same thing. And so for individuals who had that period, the law says it's over, your limitations period is over, you no longer have to be concerned with a civil action. And the states and federal government and the federal courts have treated this differently. We talked a lot yesterday about the notion of due process. Those are constitutionally guaranteed rights both at the federal level, as well as the state level. And the federal government, federal courts, have said that the federal constitution does allow, in certain circumstances, for retroactive application where you can open up a closed repose period; so the period is past, it's opened. You reopen it, the Legislature can reopen it. Some states agree and their state constitutions say something similar. Nebraska...so if there is a constitutional question, I don't think it's with the federal constitution, it's with Nebraska State Constitution. And Nebraska State Constitution, according to my research, says that the Legislature does not have the constitutional power to retroactively open a repose period. So we may have the power to extend it beyond any time certain, five years, ten years, it could go all the way out until the end of time, after the victim is deceased, potentially. Especially, by the way, with a preponderance of evidence standard, it's a...with the civil side, it's basically a 51 percent, just a preponderance of the evidence standard, not the clear and convincing standard which is a much greater standard on the criminal side; we're talking about civil. But the restriction for us is--can we look back? And there's a number of decisions that I think the answer to that is no, including Givens v. Anchor Packing, Inc. 237 Nebraska 565, 1991. By the way, I'm reading the citation so that it's in the record and that individuals now and in the future can look back and look at the case that we're discussing. The quote from that case says: it is well settled, that is competent for the Legislature, again this is the Nebraska Supreme Court, to change statutes prescribing limitations to actions and that the one in force at the time suit is brought is applicable to the cause of action. The only restriction, the only restriction on the exercise of this power that's in the Legislature's hands, is that the Legislature cannot remove a bar or limitation which has already become complete. In other words, the aspect of AM860 which says we have a completed period of repose and we want to reopen that would seemingly be foreclosed by the Nebraska..the due process guarantees that are included within the Nebraska Constitution as interpreted by Givens, and I think some subsequent cases. Now, I've had a conversation with Senator Krist off the mike regarding this, and my understanding is that there is a case that is in front of Nebraska...there's a Nebraska case that's pending or will be pending in front of the Nebraska Supreme Court that may decide this particular issue. And then there might be a question of whether or not there...we may include a severability clause, if that's something that Senator Krist wishes to do; I certainly do not want to speak for him. I will do additional

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research on that case. Today is the first I've been made aware of that case and I'll certainly do the research. I think it's very important for us, as we apply constitutional guarantees, that we think about how the Supreme Court has interpreted those guarantees. So I think it's important for us to be very clear about what our constitutional powers are or are not. So I will continue that research. As I stand here today, this morning, with what I've seen so far, I do believe that that aspect of AM860 is unconstitutional. I will continue to talk with Senator Krist; I will continue to do my own research, and I think that aspect of it is problematic. As to LB300, I'm still undecided and am considering...I think that's a policy decision for this body to consider. And I think the things to consider are: on the one hand, as Senator Krist eloquently stated, the severe personal pain and anguish that victims of child abuse suffer, and the long period of time in which, in many cases, it takes to bring a claim at all. And I think that's a weighty, important consideration. At the same time, we will need to consider the opposite side, and sometimes that's not the fun side to think about, because you're talking about people who are accused of doing what is a horrendous wrongdoing. But it's our obligation, in my view, to consider that. And so we need to consider what would that mean for the individuals who are accused. [LB300]

PRESIDENT FOLEY: One minute. [LB300]

SENATOR HILGERS: And I'm currently undecided on LB300 as a fundamental bill, although I see a lot of merit to it, and I think Senator Krist's comments were very powerful and eloquent. As to AM860, however, right now I am against it, and I will vote against it given the constitutional concerns I have with the retroactive application. But I'll continue to listen to debate on this issue. Thank you, Mr. President. [LB300]

PRESIDENT FOLEY: Thank you, Senator Hilgers. (Visitors introduced.) Continuing debate, Senator Chambers. [LB300]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, what you see now is what lawyers have to consider. Sometimes that which everybody might have a desire to do, cannot, under the law, be done. I think Senator Hilgers has raised a very serious issue. On the one hand, let me make an analogy. I've often said that if somebody were asked...or if we had a group of people, and the question was put--who will go the bond for Martin Luther King, all hands go up; Mother Teresa, all hands so up; Mahatma Gandhi, all hands go up. Jack the Ripper--silent night. Here's the point I'm trying to make. People who are trained in the law are concerned about seeing that any person who is charged with a crime for which the state has prescribed a punishment is entitled to the best, most zealous defense that a competent lawyer can give, not because that lawyer agrees with what was done, not because the lawyer even believes that the person was innocent, but because this is like, for better...a better word, a game, where the person who created the game has laid out the rules according to which the game must be played.

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And if you don't play by those rules, you can't win the game. So in this game, the state has laid out how it is to be played. Under the U.S. Constitution, the State Constitution, every constitution, the standard for proving guilt where a crime is involved is beyond a reasonable doubt. Not beyond a shadow of a doubt, beyond a reasonable doubt. So here stands Jack the Ripper caught with a dripping stiletto, blood-drenched, and at his feet was the body, still warm, maybe still twitching, the life from which would go very shortly. So Jack the Ripper is in the box. And a plea is sought from Jack the Ripper, and if Jack stands mute, the court enters a plea of not guilty. The issue has now been joined and Jack is entitled to the best defense that a lawyer, willing to take the case, will provide. And if no lawyer will take the case, the court will assign a lawyer. Because of the oath of office that lawyer took, that lawyer is bound to give that type of defense. And if for some reason the lawyer cannot, the lawyer has to make it clear to the court, then it's between the court and that lawyer. But once the lawyer takes the case, the lawyer has to make sure that every T is crossed, every I is dotted, and that's what a defense attorney is supposed to do. You may not be able to have the person declared not guilty. If the person is declared guilty... [LB300]

PRESIDENT FOLEY: One minute. [LB300]

SENATOR CHAMBERS: ...maybe all you can try to do is save the person's life. But in any case, there are standards that must be met because the conduct is wrong and carries a punishment only because the state provided it for it. So certain conduct, even toward children, is criminal because the state made it so. That's when the state charges the person, and the action is brought in the name of the state, not the victim, because the crime was committed against the state, not the victim, when it comes to punishment. Thank you, Mr. President. I'll turn on my light. [LB300]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Craighead. [LB300]

SENATOR CRAIGHEAD: Thank you, Mr. President; and thank you, Senator Krist, for introducing this bill. I stand in support of LB300. It's a very difficult situation. I am quite familiar with the situation, and I do believe that this is a good bill. What happens oftentimes to children is a horrible problem, and sometimes it takes years and years and years for people to grasp what has happened to them. So that's why I think if we remove this statute of limitations, it's a good thing. I would hope that you would please vote green on the underlying bill. And I thank you for your time. [LB300]

PRESIDENT FOLEY: Thank you, Senator Craighead. Senator Lowe. [LB300]

SENATOR LOWE: Thank you, Mr. President. Man, I wish I could talk like Senator Chambers. He's got a golden tongue. You know, this is one of those cases where if I follow my heart I would

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take these people that have done this to a child and follow them into hell and take them there, because that's where they belong. But if I follow common sense, that our minds get weaker after time, I think we need to have prosecutions as soon as possible. I don't think extending it out indefinitely is a good idea, because our minds get fuzzy after time. And what may have been a bump in the past may have been a full grapple sometime in the future. And as Senator Krist said, that this fellow, or this person, had more than one victim. And if we solve the problem early, we won't have so many victims. So I think we need to concentrate on forcing the victims; I hate to say that, but we need to get the victims to speak out sooner so that there are not more victims in the future. And if Senator Hilgers would take the rest of my time, I would like to yield Senator Hilgers the rest of my time. [LB300]

PRESIDENT FOLEY: Thank you, Senator Lowe. Senator Hilgers, 3:15. [LB300]

SENATOR HILGERS: Thank you. Thank you, Senator Lowe. Although I probably really would say thank you if I knew you were going to yield the time. I don't quite have Senator Chambers' ability to extemporaneously speak for three minutes, and I don't have any songs prepared to sing. I didn't have anything additional to add, but I do appreciate the conversation. I do think as lawyers...I will say, because once something that Senator Chambers did remark upon, and I do think it is the duty of attorneys, as counsel, and those trained in the law, even if they're not currently licensed, we have an ethical obligation to take both sides. In other words, you can choose your clients in some degree, but everyone is entitled to good representation, and everyone is entitled to good laws. And what that means is, while we are all very sympathetic and emotionally moved by people who are victims of incredibly horrendous crimes, it is also incumbent on us to ensure, as legislators, that we are also weighing the other side, just as it's incumbent on the legal system to ensure that the people accused of those crimes have good legal representation. So I think that's part of this underlying debate is to make sure that we're doing...making the right policy choice that represents, recognize, honor the issues and the incredible personal pain that these victims have suffered, while also ensuring that we do our duty to make sound public policy that accounts for all the interested parties. So thank you, Senator Lowe. I did have something to say. [LB300]

PRESIDENT FOLEY: Thank you, Senator Hilgers and Senator Lowe. Senator Krist. [LB300]

SENATOR KRIST: Thank you. I wonder if Senator Hilgers would indulge me on the mike for just a few seconds. [LB300]

PRESIDENT FOLEY: Senator Hilgers, would you yield, please? [LB300]

SENATOR HILGERS: Absolutely. [LB300]

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SENATOR KRIST: So in our conversation, what I relayed to you and what I will relay to...as a matter of legislative record is that the United States Supreme Court ruled on a case, Stogner v. California. And in that case, they said that the look-back on the criminal side is never allowed. And you're aware of that and what we had talked about that. [LB300]

SENATOR HILGERS: Um-hum. [LB300]

SENATOR KRIST: However, in the Chase Security Corporation that followed in that very opinion...finding, civil look-back is allowed by the Supreme Court of the United States. So constitutionally, the Supreme Court of the United States...the "Supremes" have ruled that the look-back is legal. And Senator Hilgers is absolutely correct, because I shared the information with Senator Schumacher who helped me put AM860 in place, and I'll talk about that in just a second, but your concern is that in the state of Nebraska it may be unconstitutional, given our State Constitution to do a look-back. LB300, in its basic form, and AM860 also has a look-forward. That look-forward you have no objection to in terms of constitutionality because it is a civil matter, not a criminal matter, but the look-back you do have an issue and you presented that to me, is that correct? [LB300]

SENATOR HILGERS: That is absolutely correct. The look-forward is within our power, it is public policy decision. To look-back is the constitutional question. You stated that correctly. [LB300]

SENATOR KRIST: So, colleagues, on the 27th of April, there will be a Supreme Court hearing, Doe v. McCoy, it is exactly this subject matter that they will rule on. Our Supreme Court in the state of Nebraska will have a hearing on...a court hearing on April 27, and they will rule on this very matter. If they find consistent with what the Supremes have found, then the look-back is not unconstitutional in civil action. Is that correct, Senator Hilgers? [LB300]

SENATOR HILGERS: I have not had a chance to look at that file. It's my understanding, but I want to do the research, but yes. [LB300]

SENATOR KRIST: Okay, we can, again, look at it between now and Select. If they find inconsistent or not consistent with the Opinions of the Supreme Court, then the look-back would be unconstitutional. So I was going to wait until Select File unless this discussion came up, but I have an amendment that I've just handed to the Clerk, and it is amendment AM939. Now, colleagues, what this does, what this does is if the look-back is not approved by the Supreme Court, our Supreme Court, then that portion of that bill is simply erased. The look-forward stays in place; the look-back disappears. That's what that amendment actually does. Declaration, if any section of this act, or any part of any section is declared invalid or unconstitutional, the

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declaration shall not affect the validity or constitutionality of the remaining portions. So what I'm asking you to vote on, and that's called a severability clause, and the lawyers in the room can shake their head and let you know that that's the case. A severability clause means that everything that is unconstitutional comes out; everything that is constitutional stays in. So what you're going to...what I'm going to ask you to vote green on is AM939, then AM860, then LB300, and we will have the whole thing in place once that amendment comes up. [LB300]

PRESIDENT FOLEY: One minute. [LB300]

SENATOR KRIST: To answer Senator Kolterman's concerns about...and he brought up a valid concern, which was the same concern that Senator Schumacher brought up when I showed him LB300 in its raw form before we developed AM860, we don't want to put your counties or your churches or the institutions at issue here. This is the perpetrator of a sexual crime. This is the person who actually affected the crime, the person, the individual; not the institutions, so they're held still harmless; go back to the original statute of limitations which is 12 years. One more quick note: every psychologist and psychiatrist that I have consulted and those who came and testified in support of this bill say it can be decades before you actually come to grips with the kinds of things that have affected you in a sexual harassment or a sexual assault. Thank you, Mr. President. [LB300]

PRESIDENT FOLEY: Thank you, Senator Krist. Mr. Clerk. [LB300]

ASSISTANT CLERK: Mr. President, Senator Krist would offer AM939 to AM860. (Legislative Journal page 935) [LB300]

PRESIDENT FOLEY: Senator Krist, you're recognized to open on AM939. [LB300]

SENATOR KRIST: I feel like I've covered the bases on the severability clause. That's exactly what AM939 is. I'm hoping that the court case that is heard on the 27th of April, and the findings, which may take some time to actually publish, will declare the entire bill constitutional. But if not, the severability clause is a fundamentally correct way to do business in this Chamber. And I think...I made a point the other day of saying that sometimes, as you run your bill through a system, if you don't look back and see prior testimony on that idea in the past, you've not prepared yourself properly. I've also made reference to go to the professor, to "Professor" Schumacher, to any number of lawyers in this body, and get some guidance in terms of what your bill actually does. Does it do what you think it should do? Is there a missing piece? And I thank Senator Schumacher for helping me develop AM860 after he gave me his concerns. So I ask you for a green vote on AM939, AM860, and LB300. Thank you, Mr. President. [LB300]

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PRESIDENT FOLEY: Thank you, Senator Krist. Senator Blood. [LB300]

SENATOR BLOOD: Thank you, Lieutenant Governor. Fellow "Frenators" frenators?...that...fellow Senators and friends all, I have some concerns on some of the things I've heard on the floor and I'm hoping that I can get through this. One of the persons has gone out to speak to a lobbyist, but I want to address what Senator Lowe said. Senator Lowe is talking about criminal courts, not civil courts. When he talks about people being punished for crimes, he is talking about criminal courts. This is not what we are talking about. Please don't confuse the issue, don't cloud it with misinformation. I'm also happy to say that I'm not an attorney. So when I look at bills like this, I think of children. We always stand up and say Nebraska is a pro-children's state. We love our children. We are pro-life, in general, in this state. We want to make sure that we provide good education. We want to protect our children. That's what this bill is truly about. This bill is about giving these children, that one day do grow up, a voice. And one of the things that I think was really interesting when Senator Lowe was talking is that I think it would have been beneficial if he had done a little research on the issue on what's going on in other states. Because I found it really interesting that when we look at the other states that have allowed for this window provision, over 3,000 people have filed civil lawsuits and pursued old cases. And not a single one of these, not one, have been proven to be false claims. That's pretty powerful. And then what I think is interesting, is states that have similar constitutions to Nebraska have had this go to the state Supreme Court to see if, indeed, it's constitutional. And guess what happened, folks? In every state so far, it's been proven constitutional. Now, I know those states aren't Nebraska. And, again, I'm not an attorney and I'm not pretending to be and I'm not pretending to know any of these cases that are being talked about on the floor today, but I know children. And I know right from wrong. And this bill is right. I stand in support of both amendments and LB300. [LB300]

PRESIDENT FOLEY: Thank you, Senator Blood. Senator Chambers. [LB300]

SENATOR CHAMBERS: Mr. President, members of the Legislature, Senator Blood speaks persuasively. This bill is right. It may be just, but is it legal? That's the question that the lawyers are looking at. Here's the way the severability clause works. You put words to this effect--if any portion of this act is unconstitutional, let that go and the rest remains. But there's an aspect to the severability clause that people don't pay attention to. What the court has said, if the provision that is unconstitutional is struck down, that still doesn't mean the rest that would otherwise be constitutional will be upheld. The other part of it says--if the unconstitutional portion that was struck down played an important and significant role in enacting the legislation, then the whole bill falls anyway. The unconstitutional part brings down the entire bill even with a severability clause. When you get into these, what some people might call arcane details of the law in the constitution, you have people who must look at those things. Emotion is not harmful, but when it comes to looking at what thus sayeth the law and what thus meaneth the law and what the

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constitution says can legally be done, emotion can play no role in it. What I think Senator Hilgers was saying, and he can correct me, but I want to explore this area. If a period exists that says--you must bring...we're talking about not criminal law now...an action against a person within five years of the commission of the act, or within a certain number of years after a person reaches a certain age, say 18, 21, whatever it is, but there is a definite period of time, one from the point when the act was committed, the other from the point at which a person is considered old enough to make a decision. So you can say there are two. But the point to remember is that once, whichever of those periods is in effect, has passed, the case is closed. You cannot go back and reopen it; because what the Legislature said was the rules according to which this part of the game will be played. The Legislature cannot go back after the game has ended and say we want to change the rules. That's what is envisioned by the amendment. And I'm not going to say it does not have an allure. I cannot say what the Nebraska Supreme Court will say in a future case. But I do not think that a piece of legislation can withstand constitutional muster if it would be crafted in this manner. If the Supreme Court decides a certain way in the future, then this bill takes effect. If it does not, it does not take effect. There is another constitutional provision that governs what we can do as a Legislature. We cannot delegate our legislative authority to any other entity. That is unconstitutionally delegating our legislative authority. If I understood the amendment up there correctly... [LB300]

PRESIDENT FOLEY: One minute. [LB300]

SENATOR CHAMBERS: ...the bill will become law based on what the Supreme Court does. In other words, an entity over which we have no control is going to, in effect, legislate in this area. We have to pass a bill that says yea or nay. It cannot be yea, if the federal government says something. That's why if you're going to refer to a federal law by incorporation into a statute, you have to say--as it existed on a specific date, so the law is not going to be changed if the federal government acts, because that would be delegating to the federal government the authority to enact legislation in the state of Nebraska. What I've said may be confusing. But my light is on and there is another point that I want to make, and maybe two. Thank you, Mr. President. [LB300]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator McDonnell. [LB300]

SENATOR McDONNELL: Thank you, Mr. President. I rise in support of amendment, AM939, AM860 and LB300, not only for the victim to finally have justice, but potentially to stop the person, the individual doing this so we don't have a next victim. I appreciate Senator Krist's work on this and I will yield the remainder of my time to Senator Krist. Thank you. [LB300]

PRESIDENT FOLEY: Thank you, Senator McDonnell. Senator Krist, 4:30. [LB300]

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SENATOR KRIST: Thank you for your courtesy, Senator McDonnell; and thank you, Mr. President. And again, I think Senator Lowe was out of the room when Senator Blood made her comments about making sure. So the message that I will repeat, this is civil. These are civil actions. These are not criminal actions. So it's not in the way of punishment. It is in the way of justice for the victim. I am potentially breaking the chain, as I said earlier. This was a multitude of crimes committed over a three-decade, 30 years. So breaking the chain at any point in there would have saved the issue. And just to make very clear, let me ask...I'd like to ask Senator Chambers a question if I could. [LB300]

PRESIDENT FOLEY: Senator Chambers, would you yield, please? [LB300]

SENATOR CHAMBERS: Yes, I will. [LB300]

SENATOR KRIST: Did I understand the last time on the mike that you had disagreed with the severability clause in terms of the way I described it, or are you trying to amplify? I wasn't clear because I was partially listening and partially preoccupied. [LB300]

SENATOR CHAMBERS: Then let me say what I said instead of trying to dovetail the two. [LB300]

SENATOR KRIST: Sure. [LB300]

SENATOR CHAMBERS: Under ordinary circumstances, if there is a severability clause, and a portion of a statute is struck down and that severability clause comes into play, then the remaining part of the legislation, the remaining part of the law can function and be upheld. But if the part which was struck down is unconstitutional, provided the basis for enacting the statute, then the statute is not saved because that one part that was unconstitutional was struck down since it was the motivation, it pulls the entire thing down and despite the severability clause, the entire law is struck down and that has been done before. [LB300]

SENATOR KRIST: So in this particular case, we have two different parts of this piece of legislation. There is the look-forward that has changed and that there is the look-back that has changed. If constitutionally it is never a problem in civil matters to change statute of limitations looking forward, it would survive. It would be the look-back that would be...have to be considered unconstitutional? [LB300]

SENATOR CHAMBERS: That's true, but what you're going to have to convince a court, if you put the look-back into it, that that had nothing to do with persuading the Legislature to pass the

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bill. But when people, such as your friend, Senator McDonnell, supports specifically that look-back, others support specifically the look-back, then the court has to conclude that the look-back played a very significant role in the enactment of this law. What you can try to persuade by questioning the people who support it is would they support the bill even without the look-back and that might be enough to rescue it. I can't say because I don't know how the court would rule. [LB300]

SENATOR KRIST: And that, colleagues, is a lesson in establishing legislative intent on the floor of the Legislature to make sure that those in the future understand why we're doing what we're doing. [LB300]

PRESIDENT FOLEY: One minute. [LB300]

SENATOR KRIST: The original bill, LB300, is a removal of the statute of limitations moving forward. That was my original intent on the bill. After consulting with victims and with other legal minds, better legal minds than mine, obviously, because I'm not a lawyer; the look-back part of it, because of where we are in the constitution federally, and the Supremes, and with the court that's being heard, is an adjunct piece on to this piece of legislation. So please support LB300, primarily, and then support AM860 and AM939 as contingencies. Thank you, Senator Chambers; and thank you, Senator McDonnell, for your courtesy. [LB300]

PRESIDENT FOLEY: Thank you, Senators McDonnell, Krist and Chambers. Senator Pansing Brooks, you're recognized. [LB300]

SENATOR PANSING BROOKS: Thank you, Mr. President. I rise in support of both amendments and LB300. I want to remind us that we're looking at this from the eyes of an adult. So when we look at how the law stands right now, it seems really reasonable that we would be able to just immediately tell about the perpetrator, talk about the abuse and move forward. And again, I want to reiterate what Senator Krist has said, this is about civil proceedings. So what we're talking about, whether somebody is civilly liable for the damage that was done. So the damages then come from the physical and emotional harm that the plaintiff suffered. We're not talking about putting somebody in prison. We're talking about helping pay for psychiatrists or therapists or whatever has gone on with this person. I want to take you back to our hearing where we had two testifiers. One talked about the sexual abuse that happened to him at 11. He talked about being shameful about it and how humiliating it was. He talked about the fact that it took him until he was 37 years to really even understand what had happened. He had blocked things. This person had taken kids bullying; he did things for the kids, spent money on them. And this man grew older and went way past the statute of limitations for any kind of conviction or any kind of look-back to help him with what he then understood later what was happening to him.

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There is no time frame in a human being for how long it takes somebody to understand, or for a child to understand, once they become adults, what happened to them. Another testifier talked about the fact that the kids and as a kid, saw himself as guilty, as a guilty participant in the activity. [LB300]

PRESIDENT FOLEY: Senator Pansing Brooks, I apologize. I don't want to let those kids get away. (Visitors introduced) Thank you, Senator, for letting me interrupt. You've got three minutes remaining, Senator. [LB300]

SENATOR PANSING BROOKS: Okay. Thank you. Oh, I was on a roll, now I got to figure out where I was. Okay. So another testifier talked about how kids see them as part of the crime and part of the bad act, that they see themselves as guilty. And so they end up blocking the event and it's a defense mechanism. So the fact that we're talking about an ability for somebody once everything comes to light and once they begin to understand what had happened, I think they should be able to go back against them civilly to get damages and get paid for that crime. The National Council (Conference) of State Legislatures, NCSL, whom many of us attend their hearings and their summits, has a portion on that that I want to read into the record. Statutes of limitations is the time in which a lawsuit is initiated by an injured person or victim. In most cases, unless there are special circumstances, the statute of limitations enacted by the Legislature might extend or reduce time limits based on certain restrictions. According to the National Center for Victims of Crime, nearly every state has basic suspensions on the statute of limitations for civil actions when a person is a minor. Many states have also adopted additional extensions specifically for cases involving sexual abuse of children. Extensions for filing civil actions for sexual abuse are often based on the discovery rule. By the time the victim discovers the sexual abuse or the relationship of the conduct to the injuries, the ordinary time limitation may often have expired. [LB300]

PRESIDENT FOLEY: One minute. [LB300]

SENATOR PANSING BROOKS: This delayed discovery may be due to emotional and psychological trauma and is often accompanied by repression of the memory of the abuse. Child victims frequently do not discover the relationship of their psychological injuries to the abuse until well into adulthood, usually during the course of psychological counseling or therapy. They may not even discover the fact of such abuse until they undergo such therapy. Please vote for AM939, AM860, and the underlying bill, LB300. Thank you, Mr. Lieutenant Governor. [LB300]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. (Visitors introduced.) Continuing debate, Senator Hilgers. [LB300]

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SENATOR HILGERS: Thank you, Mr. President; thank you, colleagues; good morning again. I very much appreciate this conversation and I am going to continue to focus not on the underlying policy merits of LB300, which I am in agreement with Senator Krist and Senator Pansing Brooks and Senator Blood and the points made regarding protecting children, but my focus is on whether or not the Legislature has the power to do it. And I think it's important to kind of reset this conversation and everything Senator Krist said and he and I discussed, I agree with. But I want to play this out how this would go forward. So I think we're all in agreement the federal constitution, and the due process rights contained therein allow for a retroactive or look-back...this retroactive reopening of the statute of limitations period. Okay? That's one. Number two is, other states would agree. But Nebraska, the case law says we do not have the power to do that. Now, the answer to that is, well, there is a case in front of the Supreme Court now that may rule on this particular issue; they may, they're going to take it up in the spring and summer, we may get an opinion that will decide this decision. So there are...there's something I don't know right now, but I can know in the coming days and there is something I don't know right now that I won't know until after this session is over. And the thing that I can know is to find out what that case says: what did the trial court do and what precise issues will be in front of the Supreme Court? And that's important because that tells us what the Supreme Court might do. It's very possible that the Supreme Court will say, well, we'll dismiss this case on standing, or we'll dismiss it on some fact or some other piece of law that distinguishes it from what is in front of us on AM860. If that's the case, then the Supreme Court decision may have a low likelihood of actually resolving this question. Or it may...the thing that I don't know, and I won't know until later this year, is what the Supreme Court actually will do. And it may be that the Supreme Court says actually this is allowed, or it may say it's not allowed. But how this would work with the severability clause, as I understand it, is whatever the Supreme Court does, Supreme Court is not deciding the constitutionality directly of AM860. So it may issue an order, have a ruling and a holding that applies to this precise question. And as Senator Briese will tell you and other individuals, Senator Harr, who practice in front of courts, a lot of times...it's very rare to find that holding that is directly on point and it says exactly everything you want to say is on four legs with what you want it to say. But even assuming it does, what would happen is there would still be a lawsuit. The only way this would come up, because it's not what I discussed yesterday in the context of LB68, wouldn't allow for a facial challenge. The only way this would be decided by a court, the constitutionality, this provision of AM860 is for a lawsuit to be filed against an accuser in this...that would...that would...have used this retroactive look-back in order to have a right case in controversy. A trial court then would have to make...rule it...the defendant would have to move to dismiss the case or move on summary judgment, have to wait for a trial court ruling, have to get an attorney and fight this and they would have to win. And then that would have to be appealed up to the Supreme Court. Or they could lose that and then the case would go to trial and then eventually there would be an appeal that would work its way up through the court system and this issue would ultimately decide it based on whatever the Supreme Court may or may not decide here coming later this year. That's a lot of contingent events. That's a lot of uncertainty.

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Certainly I can...by doing additional research on this particular case, lessen some of that uncertainty. But we don't know what the Supreme Court is going to do. So the severability clause, to my mind, it's not an automatic binary... [LB300 LB68]

PRESIDENT FOLEY: One minute. [LB300]

SENATOR HILGERS: ...decision unless it's described as Senator Chambers described it, which as...and I agree with his thoughts in terms of the legislative power rests in us, and we can't make it purely contingent on what a Supreme Court or any other party might do. So in my mind a severability clause would not make it automatic, would not be...if the Supreme Court rules this way, then immediately what would happen is AM860 would either survive or not survive, to be struck or not struck. It would be more messy than that. And I think as we decide what powers we have and what the repose period actually means, we ought to consider how this decision making process will play out and whether or not it is better to wait for that Supreme Court decision this summer and after we have...understand what the legal framework is and the legal rules we're dealing with, the Supreme Court could just reaffirm what they've done over the last hundred years, then we can make an informed decision after that. So that seems the cleaner way to do this. But I'm still listening to debate and still...and I will do the research on that underlying case that we're discussing. But as of now... [LB300]

PRESIDENT FOLEY: Time, Senator. [LB300]

SENATOR HILGERS: ...I'm voting red on AM860. Thank you, Mr. President. [LB300]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Hansen. I do not see Senator Hansen at the moment. No other members are in the queue. Senator Krist, you're recognized to close on AM939. [LB300]

SENATOR KRIST: Thank you for a thorough and honest debate on both sides. I think the underlying intent of the bill is to extend or eliminate the statute...I don't think, I'm saying that the original intent in the bill was to eliminate statute of limitations for the sexual abuse cases well into the future to allow adults who have been abused to bring civil action, not criminal action, against their perpetrator. The AM860, at your insistence, many of you, includes the exclusion of the institution and the supervision of that individual perpetrator and only holds the 12-year statute of limitation in place for the perpetrator, supervision of the perpetrator, and the institution and/or entity involved. It also includes a look-back. AM939 attaches the severability clause, which my information is a tad bit different than what you heard from Senator Hilgers. And I think you heard a dialogue between Senator Chambers and I that there is a reasonable expectation that if the if/then statement is, if it is held in the 27th of April, which we'll hear the

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results on, potentially within a few months after, then the bill will stand as is. And if the constitutionality is not decided, or if our Supreme Court does not hold consistent with the Supremes that only the look-forward will exist. And I guess that's what I'd like you to do. Between General and Select, my promise is that I will have ample conversation with Senator Hilgers, Senator Schumacher, Senator Chambers, Senator Pansing Brooks, and any other lawyers I can get to give me free advice. And we will move forward with the bill as it is and deal with it on Select; oh, I forgot Senator Harr, he's always a critical part of my investigations in the legal profession. So I'm asking you for a green vote on AM939, on AM860, and on LB300. And, again, I will remind you, if they don't go AM939, AM860 and LB300, we may have another issue to settle between now and Select and that's the entities, the counties, the diocese, the institutions behind it, which again, I will deal with between now and then. But I'm asking you for a green vote on AM939, AM860 and LB300. Thank you, Mr. President. [LB300]

PRESIDENT FOLEY: Thank you, Senator Krist. Members, you heard the debate. The question before the body is the adoption of AM939. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Senator Krist, for what purpose do you rise? [LB300]

SENATOR KRIST: Ask for a call of the house, please. [LB300]

PRESIDENT FOLEY: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB300]

CLERK: 17 ayes, 2 nays, to place the house under call. [LB300]

PRESIDENT FOLEY: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Krist. [LB300]

SENATOR KRIST: Mr. President, I believe I'd like to ask for call-ins, please. [LB300]

PRESIDENT FOLEY: Thank you, Senator Krist. [LB300]

CLERK: You had voted yes, Senator. Senator Scheer, voting yes. [LB300]

PRESIDENT FOLEY: Record, Mr. Clerk. [LB300]

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CLERK: 25 ayes, 2 nays, Mr. President. [LB300]

PRESIDENT FOLEY: AM939 is adopted. Continuing debate; I raise the call. Seeing no one in the queue, Senator Krist, you're recognized to close on AM860. [LB300]

SENATOR KRIST: Please ask you for a green vote on AM860 and also on LB300 at this point and stick around to do that so we can...and again, I promise my effort between General and Select to work out some of the issues that we have debated this morning. Thank you. [LB300]

PRESIDENT FOLEY: Thank you, Senator Krist. Members, the question before the body is the adoption of AM860. Those in favor vote aye; those opposed vote nay. Senator Krist? [LB300]

SENATOR KRIST: Can I have a roll call vote in regular order, please? [LB300]

PRESIDENT FOLEY: There has been a request for a roll call vote in regular order. Mr. Clerk. [LB300]

CLERK: (Roll call vote taken.) 25 ayes, 15 nays, Mr. President. [LB300]

PRESIDENT FOLEY: AM860 is adopted. Returning to debate on LB300. Senator Chambers. [LB300]

SENATOR CHAMBERS: Mr. President, I'm going to try to make clear what I've been trying to make clear on the retroactive part of it. I do things by drawing pictures in my mind, and I don't know if I can convey that image, but I'm going to do the best I can. Let's say that you have a glass and you lay it on its side and the mouth of the glass is open. That is the cause of action. As long as it's open, you can do anything that you want because whatever is inside that glass can be affected by whatever happens outside of it. But once you close the mouth of that glass, once you close it, then nothing that you do outside of it can have any effect or impact on what's inside the glass. It's closed. Now instead of a glass, it's a light bulb which is sealed. You can't do anything about what's in the light bulb. Whatever is outside of that, you can do whatever you want to. The part that's outside is where you're talking about looking forward. You can extend that out to the end of time or until the 12th of never. But once that glass is closed off, you cannot reach back and do anything to what's inside that glass. If you're going to say that a case is before the Nebraska Supreme Court and this bill will be enacted, hoping that a decision by the Supreme Court will make allowable what you've done. The law is going to be judged on the basis of what the circumstances were when the law was passed. If it's unconstitutional at the time it's passed, it cannot be made constitutional by something that the Supreme Court would do after the

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Legislature had acted. There is a principle known as the unconstitutional delegation of legislative authority. That occurs when some other entity does what only the Legislature has the power to do. Only the Legislature can enact a law. You cannot allow an agency to do what the Legislature alone is empowered to do. You cannot allow the Nebraska Supreme Court to do it. Nothing by the U.S. Supreme Court or the federal government can do it. I'll try to give something that is not complicated. You pass a law and you say the speed limit in Nebraska, because of the limitation allowed by the federal government on highways, is 75 miles an hour. And you add this proviso-- however, if the U.S. Government allows a speed limit of 80 miles an hour, then Nebraska's speed limit becomes 80 miles an hour. That is unconstitutional. You are saying then that the U.S. Government set the speed limit for Nebraska, which it cannot do. If the government sets a speed limit of 75 miles an hour, the Nebraska Legislature can still pass a speed limit of 80 miles an hour. But the federal government might say if you exceed this amount, you're not going to get federal funds. But your 80 mile per hour speed limit... [LB300]

PRESIDENT FOLEY: One minute. [LB300]

SENATOR CHAMBERS: ...is constitutional, it is binding, but you do it at the risk of losing federal funds. When the Legislature acts, that is the end of what can be done with that issue, unless the Legislature itself does something to change it. So if you pass a bill today and you say this provision of the bill will take effect if the Nebraska Supreme Court rules a certain way, that is unconstitutional, because you're saying the Supreme Court enacts the law where the Legislature did not. If the Supreme Court doesn't act, this is what the law is, that which the Legislature said and had the authority to do. If the Supreme Court acts a certain way, then it changes the law. That is unconstitutional. That may not be clear. So I might try one more time, I'll put on my light. Thank you, Mr. President. [LB300]

PRESIDENT FOLEY: Thank you, Senator Chambers. And you may continue. [LB300]

SENATOR CHAMBERS: I'm doing this...Mr. President, members of the Legislature, for the sake of the record and for the sake of my "pridefulness," my ego as a lawmaker. I don't know if Senator Murante is here or not, but he likes Sir Thomas More in the same way that I do and he may recognize this. A man named Robert Bolt wrote a play--"A Man For All Seasons" about Sir Thomas More; and some people call him Saint Thomas More. I'm not going to go into the details, but the King wanted Thomas More to take a certain position which Thomas More would not take, so Thomas More was framed with the aid of Cromwell and a snitch, and Thomas More lost his head...had his head cut off because his principles meant more to him than staying alive. So there was a scene where a young man who was an informer for Cromwell was in Thomas More's house. Thomas More had the highest position in the law that a person in England would have. And I'm not going to tell you what that position was because Senator Murante may want to

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comment on this, and that's a comment that anybody can make. But this informer couldn't get any information, so he left. And somebody announced it, don't let him go, he's a wrongdoer. Thomas More said...the guy said he's going. And Thomas More said--and go he should unless and until he breaks the law. And the young guy said, well, he broke God's law. And Thomas More said, then let God arrest him. And a little discussion ensued where Thomas More wound up saying, and thus it should be for the devil himself, until he broke the law. The young man said, you would give the devil benefit of law? And Thomas More said, yes, I would. And then he talked about all the laws that are in England to protect people's rights. And he asked this young man, would you cut down the laws in England to get after the devil? He said, I'd cut down every law in England. And Thomas More said, and what should you do when the devil turns on you and there is no protection for you, all of the laws being flat? Could you stand against the winds that would then blow? Yes, I would give the devil benefit of law for my own safety sake. We have to look at what the function of the law is. The law is there for the safety of everybody, even those who want to punish others. Once the game has been laid out and the rules have been set by the lawmaker, they must obtain for everybody--the one accused of having done wrong; the one yet unaccused, but who may be accused and we want the law to be applied. So when it comes to reaching back to make available a sanction against a person, we're not talking about a criminal law. Because once the statute of limitations has run on a crime, you can't do anything about it. You cannot go back. We're talking about a civil action where you have the right to sue. If the statute that deals with that issue set a cutoff date for suing, once that date is passed, no matter what the nature of the offense was, you cannot sue. [LB300]

PRESIDENT FOLEY: One minute. [LB300]

SENATOR CHAMBERS: The Legislature, and this is where we're having the debate, wants to go back and say, well, this crime, this wrong done to this person is so heinous that we can ignore what the law that we passed says is the rule of the game. And we're going to change the rule after the game is over. It's being argued by those with a legal bent of mind that the Legislature cannot do that. The Legislature, from this point onward, can set any rule it wants to and say, in fact, there will be no statute of limitations when this harm is done to a person. So as long as that person who was sinned against or wronged is alive, that person is in a position to be allowed to bring action to get personal satisfaction... [LB300]

PRESIDENT FOLEY: Time, Senator. Time, Senator. [LB300]

SENATOR CHAMBERS: ...or justice...I'll turn on my light. [LB300]

PRESIDENT FOLEY: You may continue, Senator. [LB300]

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SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, and that's the part of the bill that I can vote for without any reluctance at all. I don't think when people have done certain wrongful things they ought to be shielded if they can just lay low long enough, let enough time go by, then they can emerge from the shadows and be as though they hadn't done anything wrong and the one who was harmed is still suffering. That part I have no problem with. LB300 I can vote for. Even though you put that provision in that I disagree with, I will vote to move it on. But if that part remains in it, I cannot vote for something that I feel is unconstitutional. And I'll do some more research. My mind is open to further persuasion. But right now I'm not persuaded. Here is what I'm going to say to try to make the point. In the old days in England, and nobody in here is old enough to remember this, even though Senator Halloran tries to put himself in my category when it comes to longevity or superannuation...look that up in your Funk&Wagnalls. That just means you got a whole lot of years. When a person...if I wronged Senator Wayne and I took his life, then somebody in his family would do the same thing to me or somebody in my family and that was a blood feud. Families took justice against others like the mob will do. You kill one of my men, I'm going to get one or several of yours. Well, England did not have an inexhaustible supply of men who would serve in the king's army. These blood feuds had actually reached the point where it was a diminishing of the male population to the point where the king's ability to raise soldiers would be gone. So then a change occurred. When a person wrongs another individual in violation of the law, that crime is against the king; that crime is against the state; that crime is against the realm, and there will be no more blood feuds. Now, if you want to try to get a form of justice where you can make that person give you some money to compensate for the wrong, that's all right and that's the civil law. But when it comes to imposing a punishment, the only one that can do that is the state. And that obtains to this day. And that's why no matter how heinous a crime is committed against a person, the action is brought in the name of the state. It wouldn't be brought in the name of Senator Walz if she was the one who was wronged. Her personal lawsuit to get compensation would be Walz versus whoever did it. But the crime would be the state versus the perpetrator. Senator Walz is not authorized to punish. And if she would punish, then she would be guilty of an assault or even homicide. So the state does the punishing. The state has all of the power to enforce its laws through coercion. And if any organization is going to issue what it calls a law, but it does not have enough coercive force to compel people to obey, then that's not a state. That can be a gang or a tribe or whatever, but it's not a state. The state punishes. And when the state criminalizes conduct, it sets the punishment and it also sets the period of time during which action can be brought even by the state. In the case of homicide, there is no statute of limitations. Insurance companies have persuaded the Legislature... [LB300]

PRESIDENT FOLEY: One minute. [LB300]

SENATOR CHAMBERS: ...to designate certain crimes as having no statute of limitations, such as arson, or other things where the insurance company might be liable. They want to always have

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somebody they can go against. So the statute of limitations for the state charging somebody may be one thing, but then the statute of limitations for somebody else to take personal satisfaction may be something else. But there are certain crimes for which there is no statute of limitations. This bill deals only with the civil end. But what it wants to go back is open up a case that has been closed according to what the law was at that time and that's why I don't think that what has been done here is constitutional. Thank you, Mr. President. [LB300]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Krist, you're recognized to close on LB300. [LB300]

SENATOR KRIST: Thank you, Mr. President. I brought this bill on behalf of people who were damaged as children at the hands of an adult. I brought this bill so that those people who suffered from those injuries could find their own peace in their life. I brought this bill on behalf of children that are now adults. I have spent my time in this Legislature trying to make life safer for children in and out of the justice system, in the deep end and the shallow end. This is an extension of what I believe my mission is here. We had a great deal of debate today. And "Judge Hilgers" and other lawyers have told us their interpretation of where we are. I attempted to fix that with a severability clause, and even the severability clause has been...can I have a gavel please? The severability clause is very clear. Whatever is unconstitutional when this bill passes will be unconstitutional and the remainder of the constitutionality that holds true will be true and will be law. Senator Chambers is absolutely right. If we were passing this bill today, if it had an E-clause on it, if the Governor signed it, it would, in fact, be subject to a constitutional challenge. But with the severability clause, it could be signed without that part of it. We have two more rounds of debate. I am asking you, on behalf of the people that I brought this, and on behalf of all that is correct and right and good in Nebraska, to pass this by General File and let's work on it between now and Select with all of those great legal minds that have given you things to talk about today, and I am not being facetious, I am not being facetious, but there is a greater good in passing LB300 on so we can have further discussion. With that I would ask for a call of the house and a roll call vote in regular order. [LB300]

PRESIDENT FOLEY: Thank you, Senator Krist. There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB300]

CLERK: 27 ayes, 3 nays to place the house under call. [LB300]

PRESIDENT FOLEY: 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. Senators Watermeier,

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Morfeld, Geist, Erdman, and Brewer, please return to the Chamber and record your presence. Senator Krist, everyone is present with the exception of Senator Watermeier. We can wait if you prefer to wait. [LB300]

SENATOR KRIST: No, let's go ahead. Roll call vote, regular order, please. [LB300]

PRESIDENT FOLEY: Roll call vote, regular order, Mr. Clerk. The question before the body is the advance of LB300. [LB300]

CLERK: (Roll call vote taken, Legislative Journal page 936.) 29 ayes, 3 nays, Mr. President. [LB300]

PRESIDENT FOLEY: LB300 advances. Items for the record, Mr. Clerk. I raise the call. [LB300]

CLERK: Mr. President, the Enrollment and Review reports LB512, LB317 and LB641A to Select File. The Education Committee will have an Exec Session today at 12:45; Education, 12:45 in room 2022. (Legislative Journal pages 936-937.) [LB512 LB317 LB641A]

Senator Hughes would move to recess the body until 1:30.

PRESIDENT FOLEY: Members, you've heard the motion to recess. All those in favor say aye. Those opposed say nay. We are in recess.

RECESS

PRESIDENT FOLEY PRESIDING

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

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

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

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ASSISTANT CLERK: Mr. President, there are: Communication from the Governor that LB46 and LB46A have been signed and delivered to the Secretary of State; have a series of appointment letters from the Governor. Those will be referred to the Reference Committee. That's all I have at this time. (Legislative Journal pages 938-940.) [LB46 LB46A]

PRESIDENT FOLEY: Thank you, Mr. Clerk. (Visitors introduced.) Mr. Clerk, we can proceed with the agenda where we left off, next bill, please.

ASSISTANT CLERK: Mr. President, the next bill is LB346 which is legislation introduced by Senator Lowe at the request of the Governor. (Read title.) The bill was introduced on January 12; referred to the Transportation and Telecommunications Committee. They reported the bill to General File with no committee amendments. [LB346]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Lowe, you're recognized to open on LB346. [LB346]

SENATOR LOWE: Thank you, Mr. President, and thank you, Speaker Scheer for making LB346 a Speaker priority bill. I'm here today to introduce LB346 on behalf of the Governor. This bill is part of the Governor's occupational license reform efforts. LB346 addresses an occupational license requirement to be a motor vehicle salesperson in the state of Nebraska. Currently, an individual who wants to be a salesperson for motor vehicles, motorcycles, or trailers in the state of Nebraska must receive a permit from the Nebraska Motor Vehicle Industry Licensing Board and pay a \$20 fee. LB346 made it out of committee with an 8-0, and is supported by the Platte Institute, Americans for Prosperity, and the ACLU. My opposition to this license is based on my own experience. One of my jobs while I was in college was a car salesman for Kizzier Chevrolet. And I also had to go through the process of getting such a license, even though the car dealership had already agreed to allow me to work for them and had started to train me. At the end of the day, the licenses are an extra barrier to getting a job and amounts to a tax on employment and takes a hard earned dollars out of individuals' pockets. These licenses must be applied for annually which means an individual who already has been doing a job without any problems has to write a \$20 check to the state to continue to work. And if the individual takes a job at another dealership and the individual would once again have to apply for a new license. Thus these licenses are a barrier to employment and a barrier to upward mobility. I am further opposed to these licenses because they limit the authority of a business owner to hire individuals they believe will represent their business well. Senator Krist brought this up this morning. If any individual has a felony, certain misdemeanors or civic judgments, then they're required to do a personal interview with the executive director of the board who determines whether that individual should be allowed to have the job. If an individual has a felony conviction, then they're required to provide a background check from the State Patrol and pay for it themselves. Both of

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these steps add another cost to a person who simply wants to work at the job they already have been offered. One of the key questions in this committee was how often are people rejected outright after going through the whole process? According to the executive director of the board, the answer is about three times over the last decade. That means the state of Nebraska took in a little over \$1.6 million from salespeople over the last decade to say no to three. That does not count the individuals who had to go back and have the extra cost of travel or obtaining the background check. It is important to note that repeal of these licenses will not lead to a brave new world of completely unregulated car sales. This bill only removes the salesperson license. Dealerships, salvage lots, and other such entities would still have to be licensed by the state. LB346 simply allows these private companies the ability to hire whomever the company deems appropriate. This bill has no effect on the General Fund. These bills currently go to a cash fund. The chairperson of the Motor Vehicle Industry (Licensing) Board testified in favor of the bill and she believes the board will be able to handle this change. In business, checking out our employees is the business's business to do business, not the government's. Thank you for your time and I urge you to vote green on LB346. [LB346]

PRESIDENT FOLEY: Thank you, Senator Lowe. Mr. Clerk. [LB346]

ASSISTANT CLERK: Mr. President, Senator Wayne would move to amendment with FA57. (Legislative Journal page 926.) [LB346]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Wayne, you're recognized to open on FA57. [LB346]

SENATOR WAYNE: Thank you. I would initially say I rise in support of this bill. I think it's a great one. The more people we can put to work and make it easier for them to get to work and let go of their criminal past is a great thing. My amendment does, basically, one thing: it extends the implementation of this bill two years after the Governor signs it. Can I yield to Senator McDonnell for a question? [LB346]

PRESIDENT FOLEY: Senator McDonnell, would you yield please ? [LB346]

SENATOR McDONNELL: Yes. [LB346]

SENATOR WAYNE: Senator McDonnell, do you think a two-year arbitrary two-year implementation for this bill is ridiculous? [LB346]

SENATOR McDONNELL: I do. [LB346]

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SENATOR WAYNE: Thank you, Senator McDonnell. The reason I did that and I asked that question is because that is no different than LB75 two-year felon. It's arbitrary, it's ridiculous and there are many, many more bills out here we could have a conversation about a two-year implementation period because there is no need for it. If a person who has a criminal history gets out and pays their debt to society, they should be able to apply for a license and should be able to work, pay taxes, and they also should be able to vote. I appreciate Senator Lowe for giving me the opportunity to speak on this. And with that, Mr. Speaker, I like to withdraw my motion. [LB346 LB75]

PRESIDENT FOLEY: Thank you, Senator Wayne. Without objection, the amendment is withdrawn. Returning to debate on LB346, Senator Blood. [LB346]

SENATOR BLOOD: Thank you Lieutenant Governor. Fellow senators, friends all, I have a few questions if Senator Lowe would yield. [LB346]

PRESIDENT FOLEY: Senator Lowe, would you yield, please? [LB346]

SENATOR LOWE: Well, since it's no longer April Fool's day, yes. [LB346]

SENATOR BLOOD: We ought to get you a drummer, hit the cymbals every time you do that. In your personal opinion, do you think that states have the right to regulate important retail industries when it comes to protecting consumers? [LB346]

SENATOR LOWE: I think we should be very careful when we give the state authority to regulate the licenses. [LB346]

SENATOR BLOOD: That's not the question I asked. The question I'm asking, sir, just to repeat myself, regulating important retail industries when it comes to protecting consumers, we're not even talking about the licenses right now, do you think it's our job to protect consumers? Yes or no? [LB346]

SENATOR LOWE: I believe that we have to be very careful about what we give the state the ability to do for our customers and for ourselves. [LB346]

SENATOR BLOOD: Okay. I can respect that. The reason I'm asking that question is because I want to get some questions on record because I'm not sure if I rise in support or against this bill. I do rise in support of the Governor's efforts to make Nebraska a more retail-friendly state, invite people in to start their businesses and to go after jobs. I think that is a positive thing. But the

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concern that I have when I look at this, and I am going to ask if I can ask you another question. Have you looked at the form that they fill out when they complete the license? [LB346]

SENATOR LOWE: Yes, I have. [LB346]

SENATOR BLOOD: So one of the questions under number 7: Have you suffered any judgment in any civil action involving fraud, misrepresentation, or conversion? Right? [LB346]

SENATOR LOWE: That is what it says. [LB346]

SENATOR BLOOD: So if we eliminate this application and fee, then potentially car salesmen may never be asked this question and may have a long history of fraud, may go to work for a car dealership, and we have no consumer protection. Do you know what the first thing you do when you want to test drive a car at a dealership is? What is the first thing they do? [LB346]

SENATOR LOWE: When you do what with a car? [LB346]

SENATOR BLOOD: When you test drive a car at a dealership, what is the first thing that they do, besides give you the keys? [LB346]

SENATOR LOWE: It's been a long time because normally they just throw the keys at me and say go for a ride. [LB346]

SENATOR BLOOD: Well, you're pretty lucky. But in the big city where we live, they make copies of your driver's license. So my concern; and again, I understand eliminating the \$20 fee, but I don't know if we should eliminate the process. Do I want a potentially known felon who you don't want to give voting rights to for two years, so you must not trust them, to have my car keys, excuse me, my personal information after I leave that dealership? I don't think so. That's a concern that I have, is that I think we're taking out an important layer of consumer protection. These are questions about misdemeanors and frauds and felony charges. And unfortunately, the car dealership...car sales lends itself to a certain amount of fraud. Wouldn't you say? I'm not saying we have anybody in Nebraska, certainly, that would participate in that, but there's the potential. So my concern, Senator Lowe, that I hope you can respond to is that can we keep the license without the fee? Because then we have that layer of protection. Otherwise all of the liability falls on the dealer and then if we're trying to take away hurdles, isn't that another hurdle that we're creating for the business owners? That's another question. Yeah. [LB346]

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SENATOR LOWE: Thank you. There are thousands upon thousands of jobs in this state where... [LB346]

PRESIDENT FOLEY: One minute. [LB346]

SENATOR LOWE: ...where a person is employed by that we do not have a government license for. And I believe it is up to the employer to ask these questions of the employee because, really, he is liable for what his employee does. And shouldn't we turn it back to the business? Because if you are harmed by the employee in some way that they take your information, then it is going to come back to his business. So, the employer already has a dealership license. It could be pulled. [LB346]

SENATOR BLOOD: But as a consumer, if that protection is not there and we have a business that doesn't do a background check or doesn't check for pending felonies, as a consumer, I'm ultimately the one who is going to be out. Thank you, Senator Lowe. [LB346]

SENATOR LOWE: Thank you. [LB346]

PRESIDENT FOLEY: Thank you, Senators Blood and Lowe. Senator Krist, you're recognized. [LB346]

SENATOR KRIST: Thank you, Mr. President; good afternoon colleagues, and, again, good afternoon Nebraska. I had the fiscal note up and it disappeared. It's that darn security on our computers that we love so much. Senator Lowe, I would like to ask you a question if you could yield to one please. [LB346]

PRESIDENT FOLEY: Senator Lowe, could you yield please? [LB346]

SENATOR LOWE: Of course. [LB346]

SENATOR KRIST: I think in the testimony, as well as the notes in the fiscal note, it references that this would be a reduction in the actual manpower within the licensing board. Did you understand that to be the case from both the testimony and from the fiscal note? [LB346]

SENATOR LOWE: Yes, I do. [LB346]

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SENATOR KRIST: Okay. So is there any...it looks like a significant decrease in the amount of effort that they would have. Did they talk about a reduction in their actual manpower in the division...during the...on the board itself? [LB346]

SENATOR LOWE: According to the fiscal note, they just talked about the issuing of 8,000 licenses, not having to do that any more and the manpower it would take to go through those licenses. [LB346]

SENATOR KRIST: Okay. So that should in the long run reduce the amount of manpower required that we're paying to do those actions. Would that be your understanding? [LB346]

SENATOR LOWE: That is my understanding. [LB346]

SENATOR KRIST: Okay. So for legislative record and history, I would say that along with this reduction, it should be noted that the actual entity that's performing this should see efficiencies and that the...either DAS or someone in the executive branch, it should be monitored in terms of reduction. Thank you, Senator Lowe. That's all the questions I have. But I have a couple other comments. I don't think it's inappropriate that we talk about a two-year moratorium that was brought up on Senator Wayne. I'm sorry he took it down so quick, because I think it is a great attention getter and a great opportunity for us to talk about the implementation. It is important to put people to work. It's also important to restore their civil rights when they come out of the incarceration. When you incarcerate someone, you take their civil liberties away. When you let them out of prison and those prison sentences are terminated or served to the full potential, I think there are some constitutional questions about whether liberty is restored at that time or whether it has to be restored in some other manner. I'm sure we can work that out with Senator Wayne's bill. But I, for one, think that every time he has an opportunity to bring that up on these questions that we should. I also want to follow up on Senator Blood's comments. If you're talking about health, safety, and security of the citizens of this state, you better, you better make sure that those people that are cutting hair, dyeing hair, performing some pretty risky cosmetology issues...I mean risky, because they can cause some issues...you better make sure that they're licensed. And for us to tell the barbers, hey, you know, by the way, you don't need to have 2,000 hours of training, let's reduce it to 1,500. Any barbers in here? Senator Chambers isn't here right now. I'd ask him a question. You've got some small towns around this state that have one or two or three people who perform hair cuts, facials, go on and on and on and they're using some pretty serious chemicals. So I think when we talk about these things, we should also weigh in what is the harm. [LB346]

PRESIDENT FOLEY: One minute. [LB346]

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SENATOR KRIST: Now for Senator Lowe's concerns and for the committee's concerns I would say this--if indeed that the car dealer can legally ask the same questions as Senator Blood brought up, do you have a criminal record? Do you...do you...have you...if that's the case, then I have no problem with this. So between General and Select, I'll be asking those questions. Can the Anderson family ask the question, do you have a criminal record for fraud or whatever it is? If that's the case, I have no problem with this. If they can't ask that question, then we either need to let them ask the question or this needs to stay in place. For right now, this is a green vote for me. But between General and Select, I believe we need to ask that question. Thank you.
[LB346]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Friesen. [LB346]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. This bill came through Transportation, and so I would like to address some of the questions that Senator Blood had. And if you'd yield to a question. [LB346]

PRESIDENT FOLEY: Senator Blood, would you yield please? [LB346]

SENATOR FRIESEN: I think she left. [LB346]

SENATOR BLOOD: Yes, I'll yield. [LB346]

SENATOR FRIESEN: So, Senator Blood, would you say that an ex-felon or somebody that has been convicted of fraud should not be offered a job? [LB346]

SENATOR BLOOD: No, that is not what I am saying. [LB346]

SENATOR FRIESEN: Then I guess, what is the point of the form asking the question if, you know, I think we've discussed this in the past that there's employment forms where we're thinking about taking the question away--have you ever been convicted of a felony?--because sometimes it excludes somebody from a job before you even get a interview. [LB346]

SENATOR BLOOD: I support the ban the box. I support Senator Wayne allowing felons to vote. But what we're talking about on one of these questions really isn't as much about the felony.
[LB346]

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SENATOR FRIESEN: You're just saying that anybody that is a car salesman should not be a felon. [LB346]

SENATOR BLOOD: I'm talking about the fraud. [LB346]

SENATOR FRIESEN: Should not ever have been convicted of fraud. And if they're ever been convicted of fraud, you would say they should not be eligible for a job as a car salesman. [LB346]

SENATOR BLOOD: I'm saying that if somebody who has been convicted of fraud would not get my driver's license. I am saying we should be able to ask that question if we're going to give them personal information, yes. [LB346]

SENATOR FRIESEN: Well, this is not asking the question. This is denying them a permit, I guess, if they would have that. Thank you, Senator Blood. In the end, if I am a owner or a car dealership, do I want someone that is going to defraud the public working for me? No. You can ask the question if you want, but in the end, you have to trust your salesmen that you hire. A car dealership is still bonded and licensed. If they continue to hire people, their license is in jeopardy; their business is in jeopardy. All this does is it takes off the burden of people who move around to different car dealerships whether it is temporary jobs, short term jobs. You don't have to get this \$10 or \$20 license, whatever it costs. The car dealership is still going to be responsible. They're still licensed and bonded. And to me, if somebody has been convicted of fraud or a felony or whatever, if they still can do their job and I trust them to represent my business, I'm okay with that. We have said on the floor here a lot, once a felon has served his time, shouldn't he receive a chance to move forward? If we truly believe that, this is an opportunity. Thank you. Mr. Lieutenant Governor. [LB346]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Wayne. [LB346]

SENATOR WAYNE: Thank you. I just want to rise in support again of this bill. I think elimination of some issues as far as some of the costs and some other things I think we can work on between General and Select. I do think it is important we provide people opportunities; and I want to just quickly echo what Senator Friesen said. The company still bears liability. Me as a small business owner, if I hire somebody and something happens and that comes back on me, as a company, that's why I have more insurance, that's why I have more insurance than I know what to do with. But I think it's important that we figure out ways to make sure we keep people gainfully employed. But I do understand Senator Blood's concerns, so I look forward moving from General to Select, working on maybe an amendment if there is one, or if there is some

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compromise to getting that done. And I'd ask you all to press green on this. Thank you, Mr. President. [LB346]

PRESIDENT FOLEY: Thank you, Senator Wayne. Mr. Clerk, do we have an announcement to be made at this point? [LB346]

ASSISTANT CLERK: Mr. President, a couple of announcements. The Health Committee will hold an Executive Session at 2:00 in room 2102. Also, Revenue is going to meet at 3:00 in room 2022. [LB346]

PRESIDENT FOLEY: Thank you Mr. Clerk. Continuing debate, Senator Schumacher. [LB346]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. This does raise kind of an interesting issue as to how much good a lot of these licenses we have really do. Apparently we license car salesmen. We license electricians. We license plumbers. We probably license licensors somewhere along the line; and we get fees and we all get worked up about protecting the public. How much good is it really doing? You know who we don't license and the world seems to be getting along okay, at least so far? Computer gurus. Think of the computer gurus. They, when your computer goes in to get fixed, they got access to your hard drive. We don't check if they're felons. We don't even care what they do. They can even keep your old hard drive and download it to a master file if they want. They got access to our communication systems, your office routers. The things that now, if you've gone to the cloud, and I don't think that means heaven, you don't even have your stuff there. And they've got access to exactly how your business runs. They could program your home computer to spy on you over your little camera and microphone if they wanted. We don't license those people. And yet, I haven't heard a whole lot of complaints about them being incompetent. Maybe I should have kept my mouth shut. Maybe they'll want to license them now. Gosh, you can probably get some fees from that. Would that be a tax increase? But I think when it comes to car salesmen, they are probably much less a threat to the consumer than the computer guru with access to all your personal and banking information, who can mess up and bring down your business in a flash, crash your drives, crash your networks, whatever else you crash with a computer, spy on your privacy; even get into the phone networks and maybe tie up a big fiberoptic line or something if they just are sloppy or incompetent enough or maybe malicious enough. So I think when it comes to car salesmen, except for us losing some revenue, but I guess we could call that comprehensive tax relief, this is probably a good idea. Thank you. [LB346]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Seeing no other members wishing to speak, Senator Lowe, you're recognized to close on LB346. [LB346]

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SENATOR LOWE: Thank you, Mr. President. LB346 is a bill that has something that all should be able to like. This bill helps employees to be able to save money and time by allowing them to skip over red tape and simply work at the jobs that they already have been offered. It helps employers by having employees able to start working right away and not waiting for their licenses. It helps those who have criminal records by eliminating an unnecessary barrier to them by being able to work. And the bill still protects the consumer. Since all dealerships would still be required to have licenses and be under the review of the licensing board and the Department of Motor Vehicles requires a \$50,000 bond. Plus, they must show liability insurance. This is a commonsense piece of legislation that helps Nebraskans. I urge you to vote green and move this bill on to Select File. [LB346]

PRESIDENT FOLEY: Thank you, Senator Lowe. Members, you've heard the debate on LB346. The question before the body is the advancement of the bill to E&R Initial. All those...there has been a request to place the house under call. The question is shall the house go under call. All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB346]

ASSISTANT CLERK: 23 ayes and 3 nays to go under call, Mr. President. [LB346]

PRESIDENT FOLEY: The house is under call. Senators please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Lowe has authorized us to proceed. The question before the body is the advancement of LB346. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record please, Mr. Clerk. [LB346]

ASSISTANT CLERK: 39 ayes, 0 nays on the advancement of the bill, Mr. President. [LB346]

PRESIDENT FOLEY: LB346 advances. Moving now to General File 2017 Speaker priority bills. I raise the call. Mr. Clerk. [LB346]

ASSISTANT CLERK: LB323 by Senator Kolterman (Read title). The bill was introduced on January 12; referred to the Health and Human Services Committee. The committee placed the bill on General File with no committee amendments. [LB323]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Kolterman, you're recognized to open on LB323. [LB323]

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SENATOR KOLTERMAN: Thank you, Mr. President; good afternoon, colleagues. I'm asking for your support of LB323. It's a bill that creates the Palliative Care Consumer and Professional Information and Education Program, and a Palliative Care and Quality of Life Advisory Council. LB323 advanced unanimously out of committee with no amendments and a revised fiscal note shows no fiscal impact. Palliative care is an approach that improves quality of life for patients and their families facing the problems associated with life-threatening illnesses through the prevention and relief of suffering by means of early identification and treatment of pain and other problems besides physical such as psychosocial and spiritual. Integrating palliative care into mainstream medicine for all patients and families facing serious illness offers an essential opportunity to deliver person-centered and family-focused care; achieving better health, better care, and lower costs. Despite the rising amount of evidence showing its benefits, many professionals mistakenly equate palliative care with end of life and hospice. Because of this lack of understanding both of what palliative care is and what it should be provided, this lack of understanding remains one of the chief barriers to preventing access to palliative care. The purpose of LB323 is to improve quality in patient-centered and family-focused care in Nebraska. LB323 creates two entities. The first is a palliative care consumer and professional information education program. What this program does, it relates to information sharing about palliative care by the department's Web site. It would include continuing education opportunities for professionals around palliative care; delivery of palliative care in the home, information about best practices, educational materials, and referral information. The purpose of the education program is to maximize the effectiveness of palliative care initiatives in the state by ensuring that comprehensive and accurate information is available to the public, healthcare providers, and the healthcare facilities. The second piece of LB323 is a Palliative Care and Quality of Life Advisory Council. This council brings together health professionals that have palliative care experience and are experienced in palliative care delivery models in a variety of in-patient/out-patient and community settings for a variety of populations. The advisory council will consult with and advise the Department of Health and Human Services on matters relating to palliative care initiatives, especially the educational components that would go on the Web site. Significant progress in advances of medicine have meant many of us will live longer and also live better, even in the face of serious illness. Helping patients and their families achieve these dual outcomes, longer life, and higher quality of life is a key objective of palliative care. On a more personal note, my wife, Suzanne, and my family have been using palliative care since August of last year. I can tell you firsthand that palliative care has been very positive as you learn to live with a terminal diagnosis. Without the help and support of all of you, as well as family, friends, our outstanding medical team, and our gracious God, I don't believe Suzanne would be here today. Medicine, as we have known it, is changing fast. Anything we can do to help educate the public as to how to get help is paramount. I ask you to advance this bill. Thanks, Senator Scheer, for making it a priority; and also thanks, Senator Howard, for asking me to champion this bill. So I ask you to vote green on LB323, and I would entertain any questions you might have. Thank you. [LB323]

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PRESIDENT FOLEY: Thank you Senator Kolterman. Debate is now open LB323. Senator Riepe. [LB323]

SENATOR RIEPE: Thank you, Mr. President and colleagues. I want to thank Senator Kolterman for bringing LB323. I know this topic is not easy for my dear friend, but he did it anyway. Nebraska faces a silver tsunami and today's medical advances allow for long lives, hopefully in good health, but not always. Palliative care is part of addressing new healthcare delivery models and meeting needs. Palliative care increases the quality and the length of life for the individuals undergoing complex treatments for serious illnesses, as well as provide support for the family. Some of my life's experience include family members using services like palliative care. Palliative care continues to be underutilized. LB323 allows for greater dissemination of relevant information to consumers and promotes care at the least restrictive and the most cost-effective manner. Again, my thanks to Senator Kolterman for his strength and for continuing his efforts to provide more information to patients undergoing these tremendously stressful and emotional lifetime events. Please vote green for LB323. [LB323]

PRESIDENT FOLEY: Thank you, Senator Riepe. Senator Craighead. [LB323]

SENATOR CRAIGHEAD: Thank you, Mr. Lieutenant Governor. I, too, in my life have been involved with palliative care, and it ended up...a life ended up that should have been 3 months, ended up living 17 months. So I think palliative care is good. This was about ten years ago. It is not a new concept. I admire Senator Kolterman, especially for what he is going through now. But I hope we all push green on this bill. Thank you. [LB323]

PRESIDENT FOLEY: Thank you, Senator Craighead. Senator Hilkemann. [LB323]

SENATOR HILKEMANN: Thank you, Mr. President. I want to thank Senator Kolterman for bringing this bill, and for Senator Scheer for prioritizing it as a Speaker priority. This is an important measure that we bring forth. I'm with Senator Craighead. Let's all vote green on this. This is going to be more important than ever as we continue to go forward. I was at a NCSL meeting the other...(inaudible) Senator Howard was here. One of the speakers said that in Japan, they're selling more adult diapers than they are children's diapers. And America is going to get to that way as well. So this is good legislation. It's important. We need to continue to look at advanced directives. That needs to be coming...one of the things we need to address eventually down the line in this body, as well as POLST, or physician-ordered life sustaining treatments, and that's for another issue. But this is a good one. And I'll be supporting this. And thank you, Senator Kolterman. [LB323]

PRESIDENT FOLEY: Thank you, Senator Hilkemann. Senator Krist. [LB323]

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SENATOR KRIST: Thank you, Mr. President. And I don't want to be a mike hog today, but these issues are important to me. Last year in Judiciary, we had a bill introduced by Senator Chambers regarding end of life and the taking of one's life at one's discretion to take one's own life in certain conditions. And this all falls under the umbrella of end-of-life care, or palliative care. I've had either the fortune or misfortune, depending upon how you weigh it, to have both of my parents in hospice, to make a decision that their life was coming to an end and their quality of life was coming to an end, and that they would go into hospice and stop doing the therapies, the chemo, the life debilitating things; share with their family the time that they have left. And that for me was a heroic decision on both of their parts. I also had that opportunity with my mother-in-law in some ways. So it's been close to our parents, my wife, and my parents. We've gone through it. The reason that I voted out, and you're talking to a pro-life guy, the reason I voted that bill out of committee last year was to have this kind of discussion. And here's why: my parents had insurance. They could go into an environment and choose not to feel pain. The morphine button was right in their hand. You know what morphine does after a period of time? Ask Senator Kuehn. It shuts down the body, but they felt no pain. They had their family around them and it was their choice. Do all the people in your districts have that choice? Do they have the insurance? Do they have the care in order to have end-of-life hospice and quality care, palliative care in their waning hours of their life? No. There are many people in your districts and my district that can't afford the high deductibles, or hospice is not in their plan, or they still have no insurance. So we as a society have to come to grips with the fact that there are just as many pro-life issues, choice issues at the end of our lives as there are from conception on. And we have to be compassionate, understanding, and allow someone to have that care at the end of life. That does not exist uniformly across the board in this country. And I'm not suggesting that government should provide it to everyone. So all you conservatives that just got the hair on the back of your neck furled up, just unfurl it, I'm suggesting that we need to have a discussion about what palliative care is. And I think this bill, and I thank the Health and Human Services Committee for putting it out, is a great start and a great discussion, but it is not a complete discussion on the kind of compassionate care, humane care that this country should be known for, this state should be known for. I ask you to support LB323. Thank you. [LB323]

PRESIDENT FOLEY: Thank you Senator Krist. Senator Kolterman, you're recognized to close on LB323. He waives close. The question before the body is the advancement of the bill. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB323]

ASSISTANT CLERK: 38 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB323]

PRESIDENT FOLEY: LB 323 does advance. Next bill, Mr. Clerk, when you're ready or...announcement. An announcement, Mr. Clerk. [LB323]

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ASSISTANT CLERK: Yes, the Health Committee will hold their Executive Session now in room 2102. And the next bill, Mr. President, LB257 by Senator Craighead. (Read title.) The bill was introduced on January 11; referred to the Banking, Commerce, and Insurance Committee. That committee placed the bill on General File with no committee amendments. [LB257]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Craighead, you're recognized to open on LB257. [LB257]

SENATOR CRAIGHEAD: Thank you, Mr. Lieutenant Governor; and good afternoon, colleagues; and hello Nebraska. I come before you today to introduce LB257 which would include the real estate profession under current statute that allows two years statute of limitations on professional malpractice for certain licensed professionals. Nebraska generally has a four-year statute of limitation on negligence. However, for certain professionals, the state has changed that limitation to two years for professional malpractice. Other professions covered by this two-year limitation include medicine, law, engineering, architecture, and accounting. Our courts have defined the term "profession" as an act or service arising out of a vocation, calling, occupation, or employment involving specialized knowledge, labor, or skill; and the labor or skill involved is predominantly mental or intellectual, rather than physical or manual. Real estate is such a profession, being an occupation involving mental and intellectual skill and requiring education and testing prior to obtaining a license. Additionally, licensees are regulated by the real estate commission. Real estate agents, like other professionals that are included in the two-year statute of limitation, use their skills and knowledge to help clients relying on...by relying on their training, experience, and expertise to represent the clients. What most people don't know about realtors and the real estate profession is that most real estate professionals, not all, but most real estate professionals have a four-year degree and many have an advance degree. For some, it is a second career. The average age of a real estate professional today is 57 years old. Many real estate professionals also have advanced certifications such as certified residential specialist; they may be specialized in military, commercial, or other designations. Every two years, a realtor has to take 18 hours of continuing education requirements. Realtors also must have errors and omission insurance; and it's pretty expensive and it's pretty high, but it's because there is a lot of risk involved in the profession. And just so you know, with the difficulty of the exam that realtors have to take, 50 percent of the people fail it the first time they take it. LB257 does not eliminate the rights of anyone to file a claim of wrongdoing. It only changes the time in which a person can bring a case against those licensed under the Nebraska Real Estate Licensure Act; and there will be an amendment coming to codify this in other sections of the Professional Liability Act. This becomes simply a question of if you believe an individual licensed by the Nebraska Real Estate License Act is a professional and should be protected by the same statute of limitations as other licensed professionals. I hope you will vote green on this bill. [LB257]

PRESIDENT FOLEY: Thank you, Senator Craighead. (Visitors introduced.) Mr. Clerk. [LB257]

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ASSISTANT CLERK: Mr. President, Senator Hilgers would offer AM502. (Legislative Journal page 767.) [LB257]

PRESIDENT FOLEY: Senator Hilgers, you are recognized to open on AM502. [LB257]

SENATOR HILGERS: Thank you, Mr. President; good afternoon, colleagues. Thank you, Senator Craighead for offering LB257. The amendment that I have added...or filed, AM502, is a technical amendment that came through...really should have come through the committee itself. This was intended to, I believe, to be a committee amendment, but the bill was passed before the amendment was added. This particular amendment addresses some concerns raised by the state bar that the language relating to statute of limitations was in the wrong chapter. So what AM502 does is move the language of LB257, all of it, without any change, to the appropriate place in the Nebraska code so that it is consistent with the remaining pieces of statute of limitations that we have in this state. So with that, I'd ask for your green light on AM502 and LB257. [LB257]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Debate is now open on LB257 and the amendment. Senator Harr. [LB257]

SENATOR HARR: Thank you, Mr. President. Would Senator Hilgers yield to a question? [LB257]

PRESIDENT FOLEY: Senator Hilgers, would you yield please? [LB257]

SENATOR HILGERS: I would. [LB257]

SENATOR HARR: Thank you. This is a Speaker priority bill, is that correct? [LB257]

SENATOR HILGERS: Correct. [LB257]

SENATOR HARR: It is my understanding that if an amendment is adopted on to a Speaker priority bill that's not a committee priority, the bill is killed. Is that correct? [LB257]

SENATOR HILGERS: Wait... [LB257]

SENATOR HARR: I was told. [LB257]

SENATOR HILGERS: That is my understanding as well. [LB257]

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SENATOR HARR: Okay. Thank you. Would Senator Craighead yield to a question? [LB257]

PRESIDENT FOLEY: Senator Craighead, would you yield please? [LB257]

SENATOR CRAIGHEAD: I certainly will. [LB257]

SENATOR HARR: So do you consider this a friendly amendment to make your bill better or are you objecting to this amendment? [LB257]

SENATOR CRAIGHEAD: Well, first of all, I was not aware that it was going to be placed on here today. And I would say if it's going to kill the bill that we need to remove it. [LB257]

SENATOR HARR: Okay. Thank you. I see the amendment was filed March 20, for the record and today is April 5. This is a bill that I think needs some conversation about what is the best way to do this; probably came out of committee too quickly. I don't even know what committee it came out of, but I think Senator Hilgers' amendment is probably proper, as far as where it should be placed and how we should handle it, but we're kind of stuck between a rock and a hard place. So I'm going to sit back and listen and hopefully learn more about this. Thank you. [LB257]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Hansen. [LB257]

SENATOR HANSEN: Thank you, Mr. President. I was originally clicking on my light to think about similar things as Senator Harr, especially concerning conversation between Senator Craighead and Senator Harr as to whether or not this was intended to be a friendly amendment or not, and Senator Hilgers' introduction as a potential replacement committee amendment. So I hopped in the queue to make sure we got some clarity on that issue. And hopefully other people are working and looking at this issue as well. Thank you, Mr. President. [LB257]

PRESIDENT FOLEY: Thank you, Senator Hansen. Senator Krist. [LB257]

SENATOR KRIST: Thank you, Mr. President. And from the Chair's perspective, can we get clarity on the issue that was brought up by Senator Harr? Is the Speaker available to rule on this? May I approach the bench? [LB257]

PRESIDENT FOLEY: Please do. Senator Krist, did you have additional remarks? [LB257]

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SENATOR KRIST: I think it's appropriate for me to yield my time to the Speaker to have clarification on the issue that was brought up by Senator Harr. [LB257]

PRESIDENT FOLEY: Thank you, Senator Krist. Speaker Scheer, you're recognized. [LB257]

SPEAKER SCHEER: Thank you. Thank you, Senator Krist. Clarification of what we have as an amendment that was agreed upon with the bar association and the committee counsel of Banking, Insurance, and Commerce. The amendment that you're seeing in front of us was supposed to come out as a committee amendment. It popped out too quickly for that to catch up with it. This is simply a technical change that was supposed to be on the bill when it came out of committee. It just lagged behind and this is trying to catch up with it. I consider it a friendly technical amendment, and that is why I will support it. Thank you, Mr. Lieutenant Governor. [LB257]

PRESIDENT FOLEY: Thank you, Mr. Speaker. Senator Craighead. [LB257]

SENATOR CRAIGHEAD: I would like to clarify also. I had a middle-aged moment. This is a friendly amendment. [LB257]

PRESIDENT FOLEY: Thank you, Senator Craighead. Senator Hilgers, you're recognized to close on AM502. He waives closing. The question before the body is the adoption of AM502. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB257]

ASSISTANT CLERK: 31 ayes, 0 nays on the adoption of the amendment. [LB257]

PRESIDENT FOLEY: AM502 is adopted. Returning to debate. Senator Harr. [LB257]

SENATOR HARR: Thank you, Mr. President. Would Senator Craighead yield to a question? [LB257]

PRESIDENT FOLEY: Senator Craighead, would you yield please? [LB257]

SENATOR CRAIGHEAD: I sure will. [LB257]

SENATOR HARR: Thank you. And thank you...didn't mean to confuse things there. I just wanted clarification on that amendment so we knew what we were dealing with. It's my

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understanding that precedent seems to indicate that most professions, if not all, are found in 25-222, is that correct, a definition for what you're looking for? [LB257]

SENATOR CRAIGHEAD: Clarify 25-222 please. [LB257]

SENATOR HARR: All right. Well let me ask you this. What is your definition of a professional? [LB257]

SENATOR CRAIGHEAD: Okay. Let me read it again: Definition of a professional is a vocation, calling, occupation, or employment involving specialized knowledge, labor, or skill; and the labor or skill involved is predominantly mental or intellectual rather than physical or manual. [LB257]

SENATOR HARR: Okay. What about a hair salon person? [LB257]

SENATOR CRAIGHEAD: Yes, they are professionals also because they go through extensive training and they also sit for a state exam. [LB257]

SENATOR HARR: Okay. What about a plumber? [LB257]

SENATOR CRAIGHEAD: Same thing. [LB257]

SENATOR HARR: Electrician? [LB257]

SENATOR CRAIGHEAD: Yes. [LB257]

SENATOR HARR: Okay. Are they afforded the same protection that you're trying to get real estate agents today? [LB257]

SENATOR CRAIGHEAD: I believe they are. [LB257]

SENATOR HARR: You do? Okay. I will leave it at that for right now. Thank you. [LB257]

SENATOR CRAIGHEAD: Thank you. [LB257]

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PRESIDENT FOLEY: Thank you, Senators Harr and Craighead. Senator Craighead, you're recognized to close on LB257. She waives close. The question for the body is the advancement of the bill. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please, Mr. Clerk. [LB257]

ASSISTANT CLERK: 31 ayes, 0 nays on the motion to advance the bill. [LB257]

PRESIDENT FOLEY: LB257 advances. Next bill when you're ready, Mr. Clerk. [LB257]

ASSISTANT CLERK: LB478 introduced by Senator Groene. (Read title.) The bill was read for the first time on January 17; referred to the Judiciary Committee; placed on General File with no committee amendments. [LB478]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Groene, you're recognized to open on LB478. [LB478]

SENATOR GROENE: Thank you, Mr. President. This summer, I was approached by a young couple who were bow hunting, and then they have a small business where they sell archery equipment. They're both ex-felons. They've turned their life around. But they had been concerned because what they had heard was an opinion floating around by a verbal opinion by the Attorney General on the ability of felons to own archery equipment and go hunting. For years, the Game and Parks Commission has allowed hunting permits...archery permits to people with felony convictions who have turned their lives around. But in 2016, there was a court case, State of Nebraska against Nguyen, May of 2016, where an individual was picked up for unrelated offense. It wasn't a violent offense, I think it was a traffic stop. And he had a knife that had a blade over 3.5 inches long. He was arrested and he was sent to prison. And the Supreme Court made a note that they would not comment on why the Legislature defined a knife of any sort over 3.5 inch blade as a weapon, because the present statute defines a knife as a dagger, dirk knife, or silhouette with a blade over 3.5 inches in length, or any other dangerous instrument capable of inflicting, cutting, stabbing or tearing wounds. That defines an arrow tip. So Game and Parks was concerned that if somebody was picked up with an arrow, archery equipment in their vehicle, they could be considered having a knife. So we brought legislation to clarify in LB478 that archery equipment are not considered a knife or a weapon that a felon can possess such as a gun or anything like that. But, so we admitted a long bow, a curved bow, a compound bow, or a non-electric crossbow that is drawn or cocked with human power and released by human power, and target or hunting arrows, including arrows with broad, fixed, or removable heads where that contain multiple sharp cutting edges. We also went on to say that if a individual possessed a hunting license or a fishing license, that they could have a knife to dress those animals out. Pretty hard to field dress a deer with a 3.5 inch pocket knife. So if they're found

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with a knife longer than that and they can show a police officer a hunting permit, they will not be in trouble. We are just clarifying law into law which we have been doing. There's no incidents that we could find in the last 20 or 30 years where anybody held up a convenience store with a bow and arrow, or assaulted anybody with a bow and arrow. These people had made mistakes when they were young, and now they like the outdoors and hunting. It's brought a lot of revenue into the Game and Parks Commission by selling archery permits. It started a mini-boom in that activity, archery. And what LB478 will do, it just clarify in statute what we are already doing because of that lawsuit. And I believe Senator Schumacher is going to drop a small amendment, because you know the "Professor," he likes things clear and I do too. What we did was say on the knife part of the bill was recreational license means a license, certificate, registration, permit, tag, sticker, or other similar document or identifier, evidence permission to hunt, fish or trap for furs in the state of Nebraska. What is not clear there that it must be a state-issued license, not a game preserve or private hunting facility permit that you can hunt on that land. So Senator Schumacher will follow up with a small amendment. And I would appreciate we just pass it and green on his amendment and green on LB478. Thank you. [LB478]

PRESIDENT FOLEY: Thank you, Senator Groene. Mr. Clerk. [LB478]

ASSISTANT CLERK: Mr. President, Senator Schumacher offers floor amendment, FA59. (Legislative Journal page 941.) [LB478]

PRESIDENT FOLEY: Senator Schumacher, you're recognized to open on FA59. [LB478]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. This does exactly what Senator Groene says it does. In the definition of recreational license, which currently means a state...or it means a license, certificate, registration, permit, tag, sticker, or other similar document; it says this will insert the word a "state-issued" license, certificate, registration, permit, tag, or sticker so that that's not misconstrued to be one rancher giving somebody a sticker or something put in their window indicating that they had permission to do something on their land, or maybe the Boy Scouts giving you a certificate saying you are an archery person. So it's just really simple. It just adds the word "state-issued" in front of license, certificate, registration, etcetera, on line 22 of page 4 of the bill. Thank you. [LB478]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Chambers, you're recognized. He waives the opportunity. Senator Ebke. [LB478]

SENATOR Ebke: Thank you, Mr. President. I would just note that this came out of the Judiciary Committee on an 8-0 vote. There were three people who testified in favor of it; one opponent, and one in the neutral capacity. The committee felt fairly confident of this. And I think we're

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probably all okay with Senator Schumacher's amendment as well. So I would encourage green votes on FA59 and LB478. [LB478]

PRESIDENT FOLEY: Thank you, Senator Ebke. Senator Harr. [LB478]

SENATOR HARR: Thank you, Mr. Speaker. I do believe this makes a good bill better. However, would the Speaker yield to a question? [LB478]

PRESIDENT FOLEY: Speaker Scheer, would you yield, please? [LB478]

SPEAKER SCHEER: Yes. [LB478]

SENATOR HARR: Thank you, Mr. Speaker. We had a conversation on the last bill about if an amendment joins a bill, it loses its priority status. If FA59 is accepted, does LB478 lose its Speaker priority status? [LB478]

SPEAKER SCHEER: No, Senator. I think if you get the paperwork out that I provided everyone, it will tell you that the mere adoption of an amendment does not kill the bill. It's if it changes or it broadens or it includes another bill on to it, per my ability, it would kill the bill. Simple technical clean up, it assumes that that would be acceptable. Certainly when I prioritized the bill, we look at them as close as possible. We feel that the committees will have done their job. If there is something that's caught that is a technical clean up, certainly, it's within the parameters that which we anticipated in the selection and the rules governing Speaker priorities. [LB478]

SENATOR HARR: Thank you, Mr. Speaker. And thank you for clarifying. Now we have it on the record, because FA59 does make it better and I just wanted to make sure that we didn't lose our Speaker priority with this. So, thank you. [LB478]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Chambers. [LB478]

SENATOR CHAMBERS: On the bill. [LB478]

PRESIDENT FOLEY: Seeing no other members in the queue to speak to the amendment, Senator Schumacher, you're recognized to close. He waives closing on the amendment. The question before the body is the adoption of FA59. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB478]

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ASSISTANT CLERK: 28 ayes, 0 nays on the adoption of Senator Schumacher's amendment.
[LB478]

PRESIDENT FOLEY: FA59 is adopted. Returning now to debate on LB478, Senator Chambers.
[LB478]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I was at the hearing and the young man who will be affected by this bill testified. He acknowledged that he had committed a crime, designated a felony. It had nothing to do with this kind of equipment. His life is in order. He is well-qualified to do everything this bill allows. And after listening to him and having an exchange, one of the main reasons I supported the bill in committee and I support it now, I have other reasons but this one: Too often, judgments are made about people who are considered felons. The word "felon" carries a very sinister meaning to most people because they don't realize the number and types of conduct designated felony in the statute. You will often hear from people who don't want to see any significant improvements or modifications in the criminal law mention somebody who had committed a felony that may have been atrocious. But you don't have the opportunity to encounter somebody or hear somebody who was indeed convicted of a felony but has gotten himself together, or herself together, made a life. Part of it is understandable. The term "felon" carries such a stigma, and once that word is uttered in connection with an individual, a metal shield slides across people's brain and they won't hear anything else except that this must be a very bad, dangerous person. That is not the case at all. This is a person who was not ashamed, not embarrassed about acknowledging the fact that he was a felon. But when you can see somebody who has come back from that and made a success, in this case it was a male so I'll just use the masculine pronoun, of his life, it is an argument in favor of what some of us often mention, who are not religious, second chances. Religious people call it redemption. If we could have more examples of people who don't mind acknowledging that he or she is a felon, people would begin, as the cliché goes, to put a different face on that designation. What we need to do once somebody has paid his or her debt to society is to cut them loose. If I borrow \$6 from Senator Foley and I pay him back, he has no more claim on me and cannot demand anything else of me. The law criminalizes conduct. It sets the punishment. When a person has paid that debt, there is nothing else should be exacted. This crime of this person had nothing to do with violence or the use of a bow and arrow, a knife, or any implement that could be used as a weapon. And I want this man to get a chance to do something, and maybe after he has become even more successful, he can say, you're dealing with somebody who blundered, made a mistake, and went to the penitentiary. But you see what can happen if people will give you a chance. [LB478]

PRESIDENT FOLEY: One minute. [LB478]

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SENATOR CHAMBERS: All that people who are...we can say ex-felons since they've served their debt...all they're asking for is a chance. All this bill will do is give one of the types of people that I believe in a chance. And I wanted my name to be on that sheet that we put out as a committee report to show that I put my name behind giving this man a chance. And, Senator Groene, you tell him this from me, if he messes up, I know where he lives. I'm for the amendment and I'm for the bill. Thank you, Mr. President. [LB478]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Wayne. [LB478]

SENATOR WAYNE: Thank you, Mr. Speaker. I am just so pleased that this body is taking the issues of ex-felons so serious. And I want to remind everybody when my bill comes back around that we have a two-year period. If Senator Groene...would he yield to a question? [LB478]

PRESIDENT FOLEY: Senator Groene, would you yield, please? [LB478]

SENATOR GROENE: Yes, if it isn't a quick one. [LB478]

SENATOR WAYNE: Yes, a very quick question is--do you feel arbitrary two year would help implementation of your bill, would it make your bill better or would it make it worse? [LB478]

SENATOR GROENE: It would make it worse. These people have already paid their dues. [LB478]

SENATOR WAYNE: Thank you. No further questions. As we continue to move on and have this debate about how we provide different tools to make sure people are successful in society when they reenter society, it is bills like this, voting rights, and other bills that will continue to move this state forward. We have to remember as a body that 95 percent of the people incarcerated will return to society and we must make sure that they are productive, and active, and participants in the community in which they live, because when they are active in their community, active in the things that Senator Groene is trying to do here, they become more likely to be engaged in their community and less likely to commit future crimes. Thank you, Senator Groene, for introducing this bill and I support it. [LB478]

PRESIDENT FOLEY: Thank you, Senator Wayne. Senator Schumacher. [LB478]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. This is an opportunity for us to focus on something that this body is not a debating society. It is not a focus group. It is not a place where you just kind of express sentiment. We write laws. And the courts

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will not go behind the scene to legislative history if the law and the language we use is clear. And that is why sometimes lawyers on this floor get a bit picky trying to make that point. Well, this particular law that we are attempting to amend here is just such a case. And without getting overly technical, basically the Supreme Court back in like 2009 was faced with the question of whether or not we meant what we said. And that kind of sounded like we meant a knife is a knife is a knife and if it's more than 3.5 inch blade, it's a felony if you have it concealed in any way. And the court kind of tried to give us a second chance. And it said, well, we really think that the Legislature meant this provision to be read in the context of an older, different law, and when we read it together, we're going to come up with a commonsense solution that you've got to have this knife being held in the context of criminal activity and an evil mind. And then I think back a couple of years later, we amended the law again and we said, in clear language, a knife is something with a blade of 3.5 inches or more. That's it. And we said it in such a way and structured the law in such a way that there was no wiggle room. And the court, this last year, said--okay, who are we? We're the court; the Legislature said this clear. We can't...they didn't say...if you read between the lines, they said we can't believe they really did this; but our job is to apply the law. And so if you have a concealed knife with a 3.5 inch blade, we don't care. You're a felon if you're prosecuted. No intent needed. Well, you go to a picnic... [LB478]

PRESIDENT FOLEY: One minute. [LB478]

SENATOR SCHUMACHER: ...and you take a picnic basket with a knife in it or...and lo and behold, you're guilty. Give a wedding gift and have the store wrap it nice and pretty and the wedding gift is a knife of a particular kind that the bride and groom wanted--you're guilty. So Senator Groene's bill is an effort to clear up some of that. I have a bill which hopefully will be coming up on consent calendar which basically says no, you've got to have a little bit of a dirty mind to go with it because we don't want to put you in jail for just having a knife in a picnic basket. And so that's what we're dealing with here. Lesson to be learned. When we say something, the courts will assume we mean it. Thank you. [LB478]

PRESIDENT FOLEY: Thank you, Senator Schumacher. (Visitors introduced.) Continuing debate, Senator Chambers. [LB478]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, Senator Wayne was referring to the bill that would allow a person who had committed a felony to vote upon being released, not waiting two years as the law currently says. That provision, I was here when it was...the bill was enacted. Something had to be offered. It was a political decision which would erase enough of the opposition to allow a bill to become law which at least acknowledged that somebody who had committed a felony should be at some point allowed to vote. This bill of Senator Groene that I am supporting would be supported by me without reference to anything

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else, because I do believe in second chances. What we are talking about with Senator Wayne's bill is merely being able to register to vote, then being allowed to mark a ballot. Being invited back into the human family in the most innocuous, inconspicuous manner imaginable. Other people may not even know, but the person who votes does know. In many instances, self-respect means more than anything else. If you believe in yourself, then you have the confidence it takes to step out and attempt to do some things that might seem beyond your reach to others. But when you believe that you can do it, you at least start moving in the direction that will lead to the accomplishment of it. Voting is one of the bedrocks of the privileges as it is viewed by some people, but a right as I view it, of a functioning, orderly society. The person who is voting is not hurting anybody. The person who is voting is saying--I am going to assume one of the responsibilities, not a burden, a responsibility of citizenship. I've done my time. And now I want to function as a human being. The state has recognized that I've paid my debt by releasing me. The state, at the same time, is going to deny me that personhood in the civic setting that I would have if I'm allowed to vote. So when Senator Wayne's bill does come back, I am going to support it, as I always have, but I hope those people, especially Senator Groene, who knew a man affected by this bill, and on the basis of knowing that one good man, he extrapolated from that and recognized that there are other good men and women who were in prison and are there no longer and we want them to succeed in everything that will encourage them and facilitate that is what we're going to do. So, I would expect Senator Groene to accept at face value what I, Senator Wayne, and others who know ex-felons, who know them, I have friends who are ex-felons. If they had listened to me, they wouldn't have been a felon, period. [LB478]

PRESIDENT FOLEY: One minute. [LB478]

SENATOR CHAMBERS: But you know how hard-headed young people can be. I know people who very responsibly exercised that right to vote. I'm not going to delay this bill, but I think it is appropriate that this subject be mentioned, the voting by ex-felons upon release because it fits within the context of this bill that we're talking about: second chances, personal redemption, assumption of personal civic responsibility. Thank you, Mr. President. [LB478]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Morfeld. [LB478]

SENATOR MORFELD: Thank you, Mr. President. I rise in support of Senator Groene's bill. I think it's a good bill and I encourage the advancement of it, even though it is a mandate, I also supported Senator Erdman's mandate yesterday and voted for that as well. I've been distracted by Professor Schumacher and a few other...and Senator Hilgers for the last few days, so I haven't been able to talk about the faces and the stories of Nebraskans that we have failed by not expanding Medicaid. And today I want to talk about Tori Osler, who I actually know. And she's from LD20, which I think is Senator McCollister's district, and I want to applaud Senator

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McCollister for having the courage to stand up and actually introduce his own Medicaid expansion bill that this Legislature killed; I think it was last year; and has not come up with an alternative. Even though I heard several members come up and talk to Senator McCollister about introducing an alternative last year, they did not this year, and so I introduced my Medicaid expansion bill, which is in Senator Riepe committee and is LB441. That bill would bring in about \$1.7 billion dollars, billion with a "b", of federal dollars to come in and ensure that people who cannot afford healthcare have that healthcare and can be successful. And this is Tori Osler's story. And just as a reminder, Tori has given us permission to read this story on the floor of the Legislature. Quote, I grew up in rural Elsie, Nebraska, and now live and work in Omaha. I'm in the Medicaid gap and this is a just a piece of my personal story. I breezed through high school with almost no health issues. In college at Nebraska Wesleyan, I began to have severe mental health challenges. Fortunately, I was on my parent's health insurance at the time and they paid for my healthcare needs. In late 2014, I was diagnosed with a platelet blood disorder and had to get chemo therapy and IVIG treatments. Because I was still on my parent's insurance plan, I was able to immediately go to ER without fear of financial repercussions. The doctor said that the promptness saved my life. I stayed on my parent's insurance plan through 2016, despite the incredibly high cost of being diagnosed with several chronic illnesses. I had multiple surgeries, many treatments, and a lot of frustration as I tried to get my health under control. Meanwhile, I was a full-time student; worked part-time, and held an internship, and was looking for post-college jobs. In December 2016, my parents and I had a tough decision to make. They could no longer afford to keep me on their plan and I couldn't afford to pay my portion. As a result, I became uninsured and fell into the Medicaid coverage gap. The expectation of me as a young professional to be productive is to be productive to society. Without insurance, I can't get preventive care that allows me to fully do that. I can't be my best self without insurance. Imagine the impact of having multiple physical health issues, mental health issues, and the added stress of living without insurance. What if my illness progressed rapidly before I was able to get insurance from my employer? What if I go deeply into debt before I've even started a career? How can I continue to skip my psychotropic medication, taking it every other day, splitting it in half. Colleagues, Tori is a young professional in this state. Tori is somebody who falls in the Medicaid gap. And Tori is somebody who doesn't need to be in the Medicaid gap if we would just be responsible and do what is best for our citizens. This is yet another story of another Nebraskan that we have failed and that we don't need to fail, and quite frankly, it would help the budget situation and would help everybody's desire in here, apparently, to have tax cuts during a severe revenue shortfall. We need to do what is responsible. Senator Riepe needs to put this on the Executive Session agenda for his committee, and we need to pass it out; amend it on to a bill that's germane and get Medicaid expansion passed in Nebraska. It's the law of the land that has been stated by the Republican Speaker of the House of Representatives. We can do this. We need to stand up for what is right in Nebraska and stand up for people like Tori Osler. Thank you, Mr. President. [LB478 LB441]

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PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Groene, you're recognized to close on LB478. [LB478]

SENATOR GROENE: Thank you, Mr. President. I do agree, we're all getting along here today now with Senator Chambers and Senator Wayne. Vengeance is expensive. We need to try to rehabilitate people who make mistakes when they're young. Allowing them to take part in things in society is part of that. This young couple that testified and have the business, one of them was a problem with drugs--non-violent. The other one, as he said was...which I thought was neat, he was very articulate, but I think when Senator Chambers...it might have been Senator Chambers asked him what did you do wrong because he said I was young and stupid. It was a burglary with no humans were involved, so there was no violence, no threats made, but he did commit a felony. So anyway, we need to start letting people go on with their lives, take part in society. Besides that, I think I picked up two votes because I told them--do you know you can vote with felony convictions after two years and keeping your nose clean? They did not realize that. So it might be the difference in my election if I run again. But anyway, I would appreciate a green vote on LB478. And let's allow these people to continue on with their hobbies. Thank you. [LB478]

PRESIDENT FOLEY: Thank you, Senator Groene. Members, you heard the debate on LB478. 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? 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; those opposed vote nay. Record, Mr. Clerk. [LB478]

ASSISTANT CLERK: 20 ayes, 0 nays to go under call, Mr. President. [LB478]

PRESIDENT FOLEY: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Groene, will you accept call-ins? Senator Groene has indicated he will accept call-in votes. [LB478]

ASSISTANT CLERK: Senator Harr voting yes. [LB478]

PRESIDENT FOLEY: Record, Mr. Clerk. [LB478]

ASSISTANT CLERK: 25 ayes, 0 nays, Mr. President, on the motion to advance the bill. [LB478]

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PRESIDENT FOLEY: LB478 advances. I raise the call. Next bill, when you have the opportunity, Mr. Clerk. [LB478]

ASSISTANT CLERK: Next bill, Mr. President, LB509 by Senator Ebke. (Read title.) The bill was introduced on January 18 of this year; referred to the Judiciary Committee. That committee placed the bill on General File with committee amendments. (AM357, Legislative Journal page 691.) [LB509]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Ebke, you are recognized to open on LB509. [LB509]

SENATOR EBKE: Thank you, Mr. President. If you'd like, you might go ahead and call up the committee amendment because that becomes the bill. AM357, yeah, there you go. Okay, so LB509, as amended by the committee, is a bill that was brought to me by the Nebraska Bar Association in an effort to modernize provisions of statutes that deal with the preparation and service of subpoenas for trial. The changes proposed are the product of comprehensive process conducted by the bar association with various attorneys, practice committees, and different interest groups providing guidance and input. The bill updates statutes that are nearly a hundred years old and provides language that makes it easier to understand the appropriate process and procedures for issuance and service of a subpoena. Many of the changes made bring Nebraska's subpoena procedure into line with the rules that are already applicable in federal courts. The trial attorneys association were moderately concerned about some of the timing issues that were found in the original bill. The amendment, AM357, makes those minor adjustments to come into line with those suggestions. These are all technical in nature. They don't change the bills substantially. And LB509 was advanced from the Judiciary Committee on a vote of 8-0. For these reasons, I ask for your green vote on both AM357 and LB509. [LB509]

PRESIDENT FOLEY: Thank you, Senator Ebke. As indicated, there is a Judiciary Committee amendment. Senator Ebke, do you have additional comments? She does not. Debate is now open on the LB509 and the Judiciary Committee amendment. Seeing no members wishing to speak, Senator Ebke is recognized to close. She waives closing. The question before the body is the adoption of the Judiciary Committee amendment, AM357. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB509]

ASSISTANT CLERK: 28 ayes, 0 nays on the adoption of committee amendments. [LB509]

PRESIDENT FOLEY: AM357 is adopted. Debate is now open on LB509 as amended. Senator Hilgers. [LB509]

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SENATOR HILGERS: Thank you, Mr. President; good afternoon, colleagues. I just wanted...I briefly rise in support of LB509 and I want to thank Senator Ebke for bringing this bill. As a practitioner of both federal and state courts, I have long come to appreciate the efficiency and simplicity of the federal process for deposition and other types of subpoenas, and trial subpoenas. And I am very grateful that Senator Ebke has brought this bill to help import that efficiency to the state level. So on behalf of a number of individuals, members of the bar who practice in state court and who wish we had this procedure from federal court, I want to thank Senator Ebke. And I will be voting green on LB509. Thank you, Mr. President. [LB509]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Ebke, you're recognized to close on the advance of LB509. She waives closing. The question before the body is the advance of LB509 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB509]

ASSISTANT CLERK: 29 ayes, 0 nays on the motion to advance the bill. [LB509]

PRESIDENT FOLEY: LB509 advances. Next bill, Mr. Clerk. [LB509]

ASSISTANT CLERK: LB509A introduced by Senator Ebke. (Read title.) [LB509A]

PRESIDENT FOLEY: Senator Ebke, you're recognized to open on LB509A. [LB509A]

SENATOR EBKE: Thank you, Mr. President. This is the A bill for LB509. In order to put it into place, the judiciary branch...the judicial branch suggested that there was going to be some need for education of judges, some additional education of judges and staff, court staff, and also some automation upgrades in their justice system, I believe. So there is a one-time designation of \$15,000 from the Supreme Court Education Fund...cash fund, and \$75,000 from the Supreme Court Automation Cash Fund. Those are both one time. Thank you, Mr. President. [LB509A]

PRESIDENT FOLEY: Thank you, Senator Ebke. Debate is now open on LB509A. Senator Ebke, you're recognized to close on LB509A. The question before the body is the advancement of the bill to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB509A]

ASSISTANT CLERK: 28 ayes, 0 nays on the motion to advance the A bill. [LB509A]

PRESIDENT FOLEY: LB509A advances. Moving on to the agenda, General File 2017 priority bills. Mr. Clerk. [LB509A]

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ASSISTANT CLERK: LB97, introduced by Senator Crawford. (Read title.) Bill was introduced on January 5 of this year, referred to the Urban Affairs Committee. That committee placed the bill on General File with no committee amendments. [LB97]

PRESIDENT FOLEY: Senator Crawford, you're recognized to open on LB97. [LB97]

SENATOR CRAWFORD: Thank you, Mr. Lieutenant Governor. And good afternoon, colleagues. I would like to thank Speaker Scheer for selecting LB97 as a speaker priority bill. Norfolk is one of our 52 beautiful riverfront cities across Nebraska that could use the economic development tool in LB97 to develop the riverfronts in their cities. LB97 would allow the Riverfront Development District Act. This gives municipalities the ability to create a riverfront development district along with a riverfront development authority to oversee and manage the district. Riverfront development districts, or RDDs, are a tool that could be used by municipalities across the state to effectively fund, manage, and promote economic development and tourism efforts on riverfronts. Riverfront development districts would provide another tool in the economic development toolbox available to those cities who choose to use it. Municipalities can use RDDs to help fund and manage improvements to riverfront districts wholly contained within the corporate limits of the city. RDDs are similar to business improvement districts that many of you have in your communities that allow cities to make improvements using special assessments or occupational taxes for targeted improvements to an area within a municipality. Unlike business improvement districts, RDDs are not limited to an established business area. Instead, they allow cities to newly develop or redevelop an area that may not have a business. Also, RDDs could operate where businesses do not currently exist. And also, RDDs might be used for a riverfront plan that has other goals for the riverfront, such as tourism or recreation. RDDs allow cities to develop an area that does not extend more than one-half mile from the edge of the river or rivers along which the district is created. Fifty-two cities across the state would be eligible to utilize riverfront development districts. On your desks you have a map showing the various communities that would be able to use this tool all across our state. RDDs created under the act would be overseen and managed by a riverfront development authority, or an RDA. RDAs are created by the city as a public corporation acting in a government capacity and a political subdivision of the state. Members of the riverfront development authority are appointed by the mayor with the approval of the city council. The members of this authority serve without compensation and provide collective skills and expertise in the necessary areas to make the RDD successful, such as real estate development, financing, law, economic and community development, and tourism promotion. It is also important to note that these members are subject to the open meetings law and are required to avoid conflict of interest, as defined by the bill. Riverfront development authorities have general powers that allow them to manage and finance development within the district. These include the authority to enter into contracts; grant or acquire a license or lease; invest the money of the authority; create and implement plans for improvement; acquire public parking; construct pedestrian-friendly infrastructures; construct and

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maintain boardwalks, dock and wharfs; and own or hold real property within the district. The city establishes the riverfront development authority by ordinance, so the city decides the powers that it will grant to this RDA within the options allowed in the law. LB97 also specifies that riverfront development authorities have to make plans for improvement and redevelopment within the district in conjunction with the city. The terms of securing financing of the RDA has...in terms of securing financing, the RDA has the authority to issue revenue bonds but up to a certain cap set by the municipality. Any special assessments or occupation taxes must be levied by the city, following hearings and public votes. LB97 also forbids occupation taxes or special assessments in both a riverfront development district and a business improvement district if the boundaries of those districts overlap. Overall, riverfront development districts are an economic development tool that will allow municipalities across our state to engage in intentional and effective development or redevelopment of the riverfront districts to promote economic growth as well as tourism. RDDs are a far-reaching tool that could affect a large number of communities across our state. Some of these communities, including South Sioux City, Plattsmouth, Beatrice, and Norfolk, came to the public hearing or sent letters to express their support for LB97 and the opportunities it would give them to develop the riverfronts in a way that will positively affect their communities. Following my opening, I will further explain the amendment that I filed that will eliminate most of the loss of revenue that would have a General Funds impact. With that, colleagues, I urge you to vote green on LB97. [LB97]

PRESIDENT FOLEY: Thank you, Senator Crawford. Mr. Clerk. [LB97]

ASSISTANT CLERK: Mr. President, Senator Crawford offers AM659. (Legislative Journal page 784.) [LB97]

PRESIDENT FOLEY: Senator Crawford, you're recognized to open on AM659. [LB97]

SENATOR CRAWFORD: Thank you, Mr. President. After the committee hearing on LB97, I had the opportunity to meet with the Legislative Fiscal Office to discuss the fiscal note for LB97. As it is currently written, LB97 gives cities the ability to establish riverfront development districts with the, quote, real property owned by an authority and the authority's income and operations being exempt from all taxation by the state or any political subdivision thereof, end quote. AM659 adds a provision to this section of the bill clarifying that purchases by an authority shall be subject to state and local sales and use taxes. If adopted, AM659 will greatly reduce the projected loss of General Funds revenue outlined in the fiscal note, since RDDs will be paying taxes on their purchases if we pass AM659. This amendment would not mitigate the projected revenue loss entirely, since RDDs would remain exempt from income tax due to the fact that political subdivisions are exempt from income tax under federal law and per Nebraska statute section 77-2714. By adopting AM659 and having the RDDs pay sales and use tax,

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however, it's estimated that 85 to 90 percent of the General Funds impact outlined in the current fiscal note would be eliminated. There is a precedence for these types of political subdivisions not being exempt from sales and use tax. Political subdivisions that are not exempt include Railroad Transportation Safety Districts, rural water districts, sanitary and improvement districts, county weed districts, county historical societies, and others. Given our current fiscal environment and our current discussions about being cautious about adding any new exemptions, AM659 provides a way to both reduce the immediate General Funds impact of the bill and to be fiscally prudent in the future while ensuring municipalities across our state will still have the option to use this important economic development tool. With that, colleagues, I thank you for your attention, and encourage you to vote green on AM659 and LB97. Thank you, Mr. President. [LB97]

PRESIDENT FOLEY: Thank you, Senator Crawford. Members, you've heard the opening on LB97 and the amendment. Senator Scheer. [LB97]

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. I rise, one, to support LB97, the underlying amendment, but I would like to bring to the attention of my colleagues this, the Harr division, those three bills all have a General Fund impact. And as we discussed earlier, those bills I am trying to get on the floor and have some discussion. But if we can't find an alternate source of funding for them other than General Funds, they will only move to Select because we just have no way to pay for them. Having said that, these are real policy issues. And so I would like you to discuss these bills in relationship to the policy quality, not necessarily the funding at this point because the funding is not the part. If you don't agree with it from a philosophical basis, then don't support these bills. But I would ask you to look at the bills from a policy issue rather than a funding issue, because the funds will only come into play if and when either the economy picks up, we have more dollars, or they find an alternative source. So in...for the next three bills I would just ask you to, please, look at those bills from a policy basis, somewhat disregarding the funds. Funds are important. I'm not trying to minimize that, but knowing that these bills will only go to Select this year, based on the ability of...or the lack of funding thereof. So again, I certainly support LB97. I think it could be a critical portion of a lot of communities' economic development in their communities. But unfortunately, because of the finances of the state at this point in time, it comes into play with the funding mechanism of this and several other bills. But again, I do support this, but I would like you to look at this from a policy standpoint and judge it from that point. Thank you, Mr. Lieutenant Governor. [LB97]

PRESIDENT FOLEY: Thank you, Mr. Speaker. Senator Baker. [LB97]

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SENATOR BAKER: Thank you, Mr. President. From a policy standpoint, I support AM659 and LB97. In my District 30, this could be available to Beatrice, Blue Springs, and Wymore. Thank you. [LB97]

PRESIDENT FOLEY: Thank you, Senator Baker. Senator Crawford, you're recognized to close on AM659. [LB97]

SENATOR CRAWFORD: Thank you, Mr. President. Colleagues, again, AM659 eliminates the sales tax exemption that this subdivision would have as it was originally created by LB97. This is projected to eliminate 85 to 90 percent of the already small fiscal note. And also it sets a precedent for this economic development tool that it still will be paying state and local sales and use tax. And so I think it is both important to do in this fiscal year to reduce the fiscal note, as well as I believe it's a prudent action moving forward in terms of allowing this economic development tool to be used but asking the RDDs using this tool, the RDAs using this tool to pay sales and use tax for their purchases. So I encourage your vote for AM659. [LB97]

PRESIDENT FOLEY: Thank you, Senator Crawford. Members, you've heard the debate on AM659. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. 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; those opposed vote nay. Record, Mr. Clerk. [LB97]

ASSISTANT CLERK: 22 ayes, 2 nays to go under call, Mr. President. [LB97]

PRESIDENT FOLEY: 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. [LB97]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: Senator Crawford will accept call-ins. [LB97]

ASSISTANT CLERK: Speaker Scheer voting yes. [LB97]

SPEAKER SCHEER: Please record. [LB97]

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ASSISTANT CLERK: 25 ayes, 0 nays on the adoption of Senator Crawford's amendment. [LB97]

SPEAKER SCHEER: Thank you, Mr. Clerk. Moving on to LB97, seeing no one wishing to speak, Senator Crawford, you're welcome to close. [LB97]

SENATOR CRAWFORD: Thank you, Mr. Speaker. Colleagues, LB97 is a bill that provides a new economic development tool for our communities for the development of their riverfront, and I urge your support of LB97. Thank you. [LB97]

SPEAKER SCHEER: Thank you, Senator Crawford. You've heard the closing on LB97. The question before you is the advancement of LB97 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB97]

ASSISTANT CLERK: 39 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB97]

SPEAKER SCHEER: LB97 does advance. Raise the call. Next item, Mr. Clerk. [LB97]

ASSISTANT CLERK: Mr. President, before we get to the next bill, an announcement that the Education Committee will hold an Executive Session under the south balcony at 3:30.

SPEAKER SCHEER: Thank you, Mr. Clerk. Next item.

ASSISTANT CLERK: Mr. President, LB291, introduced by Senator Larson. (Read title.) [LB291]

SPEAKER SCHEER: Thank you, Mr. Clerk. Senator Larson... [LB291]

ASSISTANT CLERK: The bill was... [LB291]

SPEAKER SCHEER: I'm sorry? I'm sorry. Senator Larson, you're welcome to open. [LB291]

SENATOR LARSON: Thank you, Mr. President. And good afternoon, colleagues. Today I come before you to present LB291, my personal priority for the legislative session. LB291 creates and proposes to adopt the Special Economic Impact Zone Act. The purpose of this bill is to utilize tax incentives provided within the act to encourage the formation and expansion of businesses on reservations within the state. The Santee Sioux Reservation, the Ponca headquarters, as well as a

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portion of the Winnebago Indian Reservation, fall within the boundaries of Legislative District 40 and, as such, I have become familiar with the vast array of economic concerns they face. I've reached out to our Nebraska tribal leaders and have had the opportunity to meet with them, as well as representatives from all the tribes, to discuss these concerns. It is my intent to provide both incentives and solutions through LB291 in an attempt to promote economic growth and stability as well as maintain sovereignty within designated special economic impact zones, as addressed in the bill. Pursuant to similar legislation I introduced during the previous legislative session and the recommendations by the LR547 Tribal Economic Development Committee, LB291 was drafted with consideration given to original testimony as well as suggested input provided by the Department of Revenue both last year and this year. LB291 seeks to promote tax incentives for qualified businesses within the special economic impact zone by providing the following. Any qualified business within the zone would be exempt from income taxes due under the Nebraska Revenue Act. Qualified businesses would be exempt from sales and use taxes under the Nebraska Revenue Act for the first \$10 million of taxable purchases made each year. The Revenue Committee amendment, AM530, will move that down to \$250,000. The bill further stipulates that a qualified business already receiving tax incentives under the Nebraska Advantage Act would be eligible for these additional exemptions. I would like to make clear that Section 3(3)(d) specifies a qualified business "Does not engage in Class III gaming activity authorized by the federal Indian Gaming Regulatory Act." LB291 also provides that allocation of any federal low-income housing tax credits through the NIFA Act, the authority shall give bonus points to any project located within the special economic zone. The bonus shall equal two percentage points of the total allowable points. Finally, LB291 provides a revenue sharing agreement option between the Indian tribe and the Department of Revenue. If an agreement contains all of the provisions contained in Section 14(2), then the department would be required to enter into such agreement. Required criteria within this section include, but are not limited to, the Indian tribe shall impose tribal taxes, sales and use taxes that are less or equal to that of the state sales and use tax. The tribal taxes shall be imposed on both members and nonmembers of the Indian tribe. And 20 percent of the tribal taxes shall be shared with the state of Nebraska. If all criteria are met, the revenue sharing agreement is entered into. Then for the transaction subject...then for any transaction subject to tribal taxes, the department shall not impose equivalent sales and use taxes on such a transaction. However, if a tribe presents revenue sharing agreement that contains additional provisions, the department has the discretion on entering into the agreement. Again, I would like to reiterate my intent of this legislation as being an attempt to provide both incentives and benefits within these special economic impact zones in an effort to promote economic growth and stability in these areas. I'd greatly appreciate your support on LB291. Thank you, Mr. President. [LB291]

SPEAKER SCHEER: Thank you, Senator Larson. Mr. Clerk. [LB291]

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ASSISTANT CLERK: Mr. President, there are Revenue Committee amendments. (AM530, Legislative Journal page 709.) [LB291]

SPEAKER SCHEER: As the Clerk stated, there are amendments from the Revenue Committee. Senator Smith, as Chair of the committee, you're recognized to open on that amendment. [LB291]

SENATOR SMITH: Thank you, Mr. President. As Senator Larson testified in his opening, LB291 establishes the Special Economic Impact Zone Act. The purpose of the act is to create incentives for new businesses to develop on Indian reservations. A public hearing was held on March 1 in front of the Revenue Committee. In addition to Senator Larson, there were three testifiers in support, two in opposition, and there was no neutral testimony. The bill, with AM530, advanced with 5 members voting in favor, 1 opposed, and 2 present and not voting. Under LB291 as written, a qualified business is exempt from sales and use taxes due on the first \$10 million of taxable purchases for use in an economic impact zone. Committee amendment AM530 is strictly fiscally driven and reduces that \$10 million exemption to \$250,000. That is all AM530 does with respect to LB291. And in order to move this bill forward it's obvious at this time that we need to lessen its fiscal impact to the state yet still hopefully increase the economic impact to reservations in Nebraska. Colleagues, I urge you to please adopt AM530 to LB291. Thank you, Mr. President. [LB291]

SPEAKER SCHEER: Thank you, Senator Smith. Mr. Clerk, there is an amendment to the committee amendment. [LB291]

ASSISTANT CLERK: Senator Larson offers AM941. (Legislative Journal pages 942-944.) [LB291]

SPEAKER SCHEER: Senator Larson, you're welcome to open on AM941. [LB291]

SENATOR LARSON: Thank you, Mr. President. AM941 to LB291 comes with some cleanup from the Department of Revenue, and also Section 11 addresses concerns presented by Senator Harr as it pertained to the allocation of low-income housing tax credits. Application for developments located within the zones will be awarded the two bonus points...2 percent bonus points; however, the amendment stipulates that only one application per calendar year will be awarded an allocation of actual federal low-income housing tax credits as a result of the bonus. Section 14 is language suggested by the Department of Revenue for the purposes of implementing the bill by providing that qualified businesses would receive the exemption for sales taxes on purchases using direct payment permit. Generally, only very large businesses are eligible to make their purchases tax exempt and remit use in taxable items monthly. This

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amendment allows a qualifying business under LB291 to receive direct pay permit regardless of size. This would allow these businesses to make all their purchases exempt and begin accruing the use tax when the \$250,000 threshold is reached. This portion...number two, this portion would...of the amendment makes the adjustment to the definition section of the bill, particularly as it pertains to reservation. It was brought to our attention by the Department of Revenue that our definition of reservation as referenced in Section 43-1503 includes federally designated or established service areas which includes areas beyond that of trust land and reservations. That was not the intent of the bill. The bill was focused directly on incentives towards the economic development on reservations and trust land as it pertains to Ponca. The language in this section further clarifies that designation. And lastly, also the department requested a change that provides that the taxable income of qualifying businesses be excluded in a proportion of the sales made or delivered from the location inside the special economic zone. This provides a calculation method for determining the income tax benefit to the qualifying business rather than a separate accounting for the location. Finally, I would like to point out that AM941 initially strikes out the committee amendment language and then reinstates it on page 3, lines 20 and 21. This was done for purposes of simplicity as it pertains to the request of the Revisors. Thank you, Mr. President. [LB291]

SPEAKER SCHEER: Thank you, Senator Larson. Going to the queue for discussion. Seeing no one in the queue, Senator Larson, you're welcome to close on AM941. [LB291]

SENATOR LARSON: Thank you, Mr. President. This is just a technical amendment from the Department of Revenue doing what they want to help make sure the implementation of this moves forward. Thank you. [LB291]

SPEAKER SCHEER: You've heard the closing to AM941. The question before you is the adoption of AM941. All those in favor please vote aye; all those opposed vote nay. Senator Larson, could you stand at ease until we provide some other bodies? Please record. [LB291]

ASSISTANT CLERK: 25 ayes, 0 nays on the adoption of the amendment. [LB291]

SPEAKER SCHEER: AM941 is adopted. Moving on to AM530. Seeing no one in the queue, Senator Smith, you're welcome to close. Senator Smith waives closing. All those in favor of adoption of AM530 please vote aye; all those opposed vote nay. Have all voted that wish to? Senator Groene, have you voted? Please record. [LB291]

ASSISTANT CLERK: 26 ayes, 0 nays on the adoption of committee amendments. [LB291]

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SPEAKER SCHEER: AM530 is adopted. Senator Crawford. [LB291]

SENATOR CRAWFORD: Thank you, Mr. Speaker. I rise to ask a couple of questions for the record for LB291 if Senator Larson would yield. [LB291]

SPEAKER SCHEER: Senator Larson, would you please yield? [LB291]

SENATOR LARSON: Yes. [LB291]

SENATOR CRAWFORD: Thank you, Senator Larson. And I appreciate you bringing this bill so we can talk about economic development and economic development tools in our reservations, and I appreciate your bringing this bill. I just wanted for the record to talk about the sales tax piece. As I understand it, the bill provides sales tax agreement so that we can work with the tribe in terms of collecting state sales tax. Now is it true that currently we would not be allowed to collect any sales tax revenue in the reservation? Is that true? [LB291]

SENATOR LARSON: No, technically the way that the law is written now we do not collect any sales tax on members of a tribe. But they are supposed to collect sales taxes of nonmembers of a federally recognized tribe. That rarely happens because essentially when you're on a reservation it is--how would I want to say this?--not good etiquette to ask somebody to provide identification on whether or not they are a native or not. They don't...again, that's just not good etiquette. So very rarely is a sales tax ever collected. [LB291]

SENATOR CRAWFORD: Okay. So... [LB291]

SENATOR LARSON: It doesn't mean that it isn't collected at a rare occasion. But what this bill does is it says should a tribe choose to implement a sales tax, it will be collected on everyone and it will...and the state will get 20 percent of that. Now talking with the tribes, they will more than likely institute their own state sales and use tax at 5.5 percent or 5 percent because they view that as an economic development tool in and of themselves, just as we view a sales tax as an economic development tool. But just like we have a sharing agreement with the motor vehicles tax with the federally recognized tribes, we will again have an agreement with the sales tax in which the state receives a portion of it. So we will actually see an increase in sales tax revenue. [LB291]

SENATOR CRAWFORD: That was my follow-up question that you answered already. This actually increases our sales tax revenue potentially. Yes. [LB291]

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SENATOR LARSON: Yes. We don't know to what extent yet, but it will. [LB291]

SENATOR CRAWFORD: Right. Thank you. The second question is just what was behind the choice of the income tax exemption being a 100 percent exemption with no time parameters, if you would talk about the policy reasoning for that, those parameters on the income tax exemption, please. And I'll yield you the rest of my time. [LB291]

SENATOR LARSON: So right now, we have to remember that native country is its own sovereign nation. And with any sovereign nation, they have the ability to create their own taxes and levy their own taxes, hence, the sales tax portion. And that also comes to income taxes. So the reason the income taxes are very rarely...let me back up a second. One of the reasons non-Native businesses do not like to go to a reservation is the uncertainty that a tribe might implement an income tax on them. That would mean they would be getting income taxed by the state, the feds, and the tribe. And so a lot of non-Native businesses don't go there because non-Native businesses are already exempt federally and state taxes. So a Native business doesn't have to worry about it. They would only have to worry about the Native tax, should that happen. But a non-Native business would be taxed federally and the state and by the tribes. So that was the logic behind it was we want to make sure that we are giving non-Native businesses that ability that they don't have to worry about the triple taxation. And that will give more certainty... [LB291]

SPEAKER SCHEER: One minute. [LB291]

SENATOR LARSON: ...to large businesses that want to go in. As I said, the tribes are very supportive of this bill. They understand that we are essentially giving non-Natives the same benefits that Natives currently have. We can't take away the federal income tax for the non-Native businesses, but this would take away the state income tax which the non-Native businesses already pay. And, you know, historically that might have been a bone of contention. But now we've seen the slow economic development within the reservations and the tribes are very willing to try new things and willing to give non-Native businesses those same...some of the same benefits that Native businesses have. [LB291]

SPEAKER SCHEER: Thank you, Senator Crawford and Senator Larson. Senator Erdman, you're recognized. [LB291]

SENATOR ERDMAN: Thank you, Mr. Speaker. I've read the bill before and I spoke to Senator Larson about this and I have a couple of questions still if Senator Larson would help me with those. [LB291]

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SPEAKER SCHEER: Senator Larson, would you please yield? [LB291]

SENATOR LARSON: Yes. [LB291]

SENATOR ERDMAN: Senator Larson, on page 2, line 15... [LB291]

SENATOR LARSON: Of the green copy? [LB291]

SENATOR ERDMAN: ...of the--see what it is--of the bill, LB291. [LB291]

SENATOR LARSON: You're on the green copy? [LB291]

SENATOR ERDMAN: I'm on the green copy. [LB291]

SENATOR LARSON: Okay. Page 2, what? [LB291]

SENATOR ERDMAN: Page 2, line 15 talks about,... [LB291]

SENATOR LARSON: Okay. [LB291]

SENATOR ERDMAN: ..."Derives no more than five percent of its income from the sale of agricultural grain... [LB291]

SENATOR LARSON: Yes. [LB291]

SENATOR ERDMAN: ...which it..." Tell me about that. [LB291]

SENATOR LARSON: Yeah. Essentially, the main reason is a lot of the tribal reservations are in rural areas that do have a significant amount of farmers there. And if we did not exempt this, one, the fiscal note would be astronomical because every time a new farm started an LLC or whatnot they would be in qualified business. We didn't want to exclude ag completely though. We wanted to make sure that ag had a portion so if there was a new feedlot or a new chicken plant or a new of that type of business that would create jobs... [LB291]

SENATOR ERDMAN: Okay. [LB291]

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SENATOR LARSON: ...we wanted to make sure those types of businesses could go there, could be...maybe it's a new slaughter facility, something of that nature, that they would be eligible. We didn't just want to exclude the whole ag sector. [LB291]

SENATOR ERDMAN: Okay. [LB291]

SENATOR LARSON: But that was...we, essentially for fiscal note reasons, had to exempt agricultural grain. [LB291]

SENATOR ERDMAN: So those poor farmers don't get to take a chance...take advantage of this? [LB291]

SENATOR LARSON: Unfortunately, if you are just a...in production ag, no. [LB291]

SENATOR ERDMAN: Okay. All right, then it goes on the next couple lines down on 18 it says and "Does not engage in Class III gaming." [LB291]

SENATOR LARSON: Correct. [LB291]

SENATOR ERDMAN: Tell me if you would, describe if there is Class I and II and III. What do those mean? [LB291]

SENATOR LARSON: So essentially Class III gaming, we already have Class I and II gaming in the state of Nebraska. Therefore, that can be practiced on the reservation as is and the tribes do have their own casinos on all three of the reservations that we have in the state. Class III gaming is the type of gaming we do not have in the state of Nebraska. It is full-blown casino. And to alleviate fears of members that this was a roundabout way to have an income tax casino, exempt casino... [LB291]

SENATOR ERDMAN: Okay. [LB291]

SENATOR LARSON: ...in the state of Nebraska, should we ever legalize gaming, that is not what this...this is truly about economic development. This is truly about jobs. This wasn't my end around the gaming. [LB291]

SENATOR ERDMAN: Okay. Thank you. [LB291]

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SENATOR LARSON: So we... [LB291]

SENATOR ERDMAN: So did someone bring this to you or is this your own idea? How do you get these ideas? [LB291]

SENATOR LARSON: (Laugh) This one specifically I came up with the concept of it last year and I introduced that bill and it was locked in committee 4-4. And Senator Smith and Senator Schilz and there's a...Senator Lindstrom and I had a...we had an interim study this summer where we worked with the tribes again to think out ideas that... [LB291]

SENATOR ERDMAN: Okay. [LB291]

SENATOR LARSON: ...we could use for economic investment. And it was kind of a...we all worked together and this was the product of that. [LB291]

SENATOR ERDMAN: All right. So it looks to me like this is a pretty good deal. It looks like it's income tax relief for certain people. And it may be economic development. But I'm a little confused on this. I'm not sure. I voted green on those other two amendments, but I'm not sure I'm going to vote green on this. [LB291]

SENATOR LARSON: You should. [LB291]

SENATOR ERDMAN: Not sure where it's going yet, but I'll continue to listen. Thank you. [LB291]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Thank you, Senators Erdman and Larson. Senator Bostelman. [LB291]

SENATOR BOSTELMAN: Thank you, Mr. Lieutenant Governor. Would Senator Larson yield to a question? [LB291]

PRESIDENT FOLEY: Senator Larson, would you yield, please? [LB291]

SENATOR LARSON: Yes. [LB291]

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SENATOR BOSTELMAN: Just a curiosity question, how does this affect or are there taxes paid on fuels and cigarettes? [LB291]

SENATOR LARSON: This does not affect either one. So right now the state of Nebraska already has a motor fuel compact with every one of the tribes. That will not affect this. We explicitly leave that out. So we will still have the motor fuel tax compact on fuel. That is unrelated, as is the cigarette one. This, what LB291 does is only the sales and use tax in terms of an agreement with the tribe and then the income tax portion is completely state level. With...the cigarette one is much more complicated and has to go through the Master Settlement Agreement with the feds and whatnot, so we can't...there's been a number of attempts to deal with the cigarette tax and that on the state level and it's actually never been worked out. So we very purposely left that out. And the motor vehicle...and the motor fuel tax is already dealt with so we left that out as well. [LB291]

SENATOR BOSTELMAN: Thank you. Thank you, Mr. Lieutenant Governor. [LB291]

PRESIDENT FOLEY: Thank you, Senator Bostelman. Senator Larson, you're recognized to close on the advance of LB291. [LB291]

SENATOR LARSON: Thank you, Mr. President. I would urge all my colleagues to support LB291 moving forward and I appreciate Senator Erdman's and Senator Bostelman's and Senator Crawford's questions. What we have here is a piece of legislation that does focus truly on economic development for what is the poorest areas of our state. There are parts of this state that are extremely impoverished. There are parts of Omaha and Lincoln that are extremely impoverished, but until you go to the Native reservations, those are some of the true areas that we need to help as a state and give an economic benefit. This is not a handout. This is looking to bring businesses there and new types of businesses. And like I said, this isn't even a...this is a benefit that non-Natives get. This isn't even a benefit for Natives but they are very supportive of it because they are looking for anything to bring jobs there and this will just add more certainty to non-Native businesses that want to move to the reservation of the tax structure because there's very little certainty now. And it will also be a large economic benefit with the sales and use taxes added collection. The state will be getting 20 percent. It will be on everybody. And the tribes are very supportive of that concept as well because they'll be collecting 80 percent of something that they've never had before. This will, you know, invest money into the infrastructure of their communities as well. And they look forward to that added money to invest in their infrastructure, whether that's housing or schools or anything else. This is a crucial piece of legislation for the tribes and I'd urge your advancement. Thank you, Mr. President. [LB291]

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PRESIDENT FOLEY: Thank you, Senator Larson. Members, you've heard the debate on LB291. The question before the body is the advance of the bill. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record please, Mr. Clerk. [LB291]

ASSISTANT CLERK: 26 ayes 0 nays on the motion to advance the bill, Mr. President. [LB291]

PRESIDENT FOLEY: LB291 advances. Next bill, Mr. Clerk, when you're ready. [LB291]

ASSISTANT CLERK: LB248, introduced by Senator Burke Harr. (Read title.) Bill was introduced on January 11 of this year, referred to the Business and Labor Committee. That committee placed the bill on General File with committee amendments. (AM301, Legislative Journal page 566.) [LB248]

PRESIDENT FOLEY: Senator Harr, you're recognized to open on LB248. [LB248]

SENATOR HARR: Thank you, Mr. President, members of the body. We have a huge budget problem. Our revenue is, at best, stagnant and that is before any potential tax breaks that the Revenue Committee may or may not be voting out at this second. We have a loss in GDP. Growth in GDP is an increase in the number of workers multiplied by the increase in efficiency of those workers minus inflation. We have to find a way to increase GDP if we want to grow the state's revenue without raising taxes. To do that, we can either increase the number of workers or we can get our workers more opportunities for higher wages and better jobs. This last election informed us of many things, but probably most importantly it spoke to the crisis of opportunity. People with fewer job skills are seeing their wages stagnate and their labor markets evaporate. Fifty years ago Nebraska could afford to lose large number of students to high school dropouts. These dropouts could still land well-paying jobs to support their families. But times have changed. Today there is a high cost for high school dropouts. Jobs that require relatively little education are increasingly done by machines or shipped overseas. And individuals who fail to earn a high school diploma are at a great economic disadvantage. According to the U.S. Bureau of Statistics, since January 2010 the U.S. economy has increased or added 11.6 million jobs--thanks, Obama--and 99 percent of those jobs have gone to workers with at least some college education. That same study shows that high school dropouts are nearly three times as likely to be unemployed than postsecondary graduates. Even when employed, high school dropouts earn less. According to the Alliance for Excellent Education, dropouts earn about \$8,000 a year less than high school graduates and approximately \$26,500 a year less than postsecondary graduates. According to the U.S. Department of Education, dropouts between the ages of 16 to 24 experience a poverty rate of 30.8 percent--double the rate of high school graduates. Additionally, when compared to the typical high school graduate, a dropout will end up costing taxpayers an average of \$292,000 over a lifetime, due to the price tag associated with additional government

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services and other factors such as less money paid in taxes. High school dropouts are also generally less healthy, require more medical care, and die earlier. In fact, cutting the number of high school dropouts in half nationally would save \$7.3 billion in annual Medicaid spending alone. When you put the numbers in aggregate, you get incredible numbers. Nearly \$12 billion would be saved in heart disease-related savings, \$11.9 billion in obesity-related savings, \$6.4 billion in alcoholism-related savings, and \$8.9 billion in smoking-related medical costs. As a society, we're not just paying into public assistance programs for dropouts but we are also paying to protect ourselves against those through incarceration. Data from the Nebraska Department of Corrections on the educational attainment of inmates is sparse, but estimates do indicate that 38.1 percent of newly incarcerated inmates do not have a high school diploma or GED, and that number is even higher when you calculate first-time offenders in prison. Additionally, a 2004 national survey of inmates in state and federal correction facilities by the U.S. Bureau of Justice Statistics found that 60-some percent of inmates in America's state prisons are high school dropouts. The number is even...it's 69 percent for inmates in our local jails, which, as we all know, are paid through property taxes. The same study states that incarceration and court costs by high school dropouts saddle us with an annual \$79.7 billion fiscal note, and that doesn't even include the financial hits to the victims of the crimes in medical care--broken legs--lost work, or insurance adjustments. Locking into the future...looking into the future, the job prospects aren't getting any brighter for individuals with low levels of education. According to research by the Georgetown Center on Education and Workforce, 65 percent of all jobs by 2020 will require some form of education after high school. Our state graduation rate is very good at 89 percent. However, for students who qualify for free and reduced lunches, the number is much lower--81 percent, 10 percent lower. This is costing our state tax revenue. Ensuring that more students graduate from high school with the knowledge and skills necessary to succeed in college and a career would have a tremendous benefit for our economy. In fact, increasing the national high school graduation rate to 90 percent, or just 1 percent higher than we are currently, for one high school class would create as many as 65,700 jobs nationally and boost the national economy by \$10.9 billion. The nation would also see an increase in home and automobile sales of \$16.8 billion and an annual increase in state taxes of \$661 million. Again, that's nationwide. To taxpayers, each of these so-called opportunity youth impose a lifetime cost, as I stated earlier, of about \$292,000 in welfare payments, food stamps, criminal justice, and medical care. If we were able to graduate all of our free and reduced kids from high school, we would create a savings of \$362 million a year, and that's in Nebraska alone. The cost per year is high. For youths ages 16 to 24, dropouts cost about \$13,890 in state resources. Think about that. That's more than we actually spend to educate these kids in our public schools. According to a report by the University of Nebraska at Omaha, on average in the Omaha metropolitan statistical area, the MSA--and I don't have it across the state; I only have it for Omaha, and I apologize--but in Omaha, high school dropouts earn about \$7,025 less per year than their high school graduates, and \$11,652 less than persons with some college or associate degrees. In the Omaha area, that means dropouts pay \$369 less in state income taxes than those with an associate's degree. One

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changing factor when it comes to dropout rate, though, that we need to look at is socioeconomic background. Since the National Center for Educational Statistics first started tracking different groups of high school students in the late-1960s, the socioeconomic of each pupil has impacted his or her graduation rate. Students from low-income families are 2.4 times more likely to drop out than middle-income kids, and over 10 times more likely than high-income peers to drop out. Household income is not the only disadvantage many dropouts face, though. Some behaviors that are often characteristic in dropouts include general feelings of being left out or alienated by their peers or adults at school. Overall, a student who does not fit the traditional classroom mold or falls behind for some reason is more likely to lose motivation when it comes to high school completion and, therefore, decides to give up altogether. Our Governor, Pete Ricketts, recently commissioned a report by SRI International. It found that 66 percent of jobs in Nebraska will require some postsecondary education, higher than the national average of only 65 (percent). [LB248]

PRESIDENT FOLEY: One minute. [LB248]

SENATOR HARR: Thank you. This program, and I'm going to summarize it a little bit, the Youth Opportunities in Learning and Occupation Act, is designed to practice early investment in the youngest people in the state by teaching young people the skills necessary to succeed in employment. YOLO is designed to specifically target young kids aged 16 to 24 who receive free and reduced lunches and are recipients of or...and/or recipients of Pell Grants. The legislation also requires that the YOLO grant dollars be equally distributed across the state. It also requires that there be a match by a private partner. So this is one of our public-private partnerships. The program is run through the Department of Labor. I can go into more detail of the program, but I chose Department of Labor because I went between DED--Department of Economic Development, Department of Education, and Department of Labor trying to figure out which one is best situated to run this program. At the end of the day, I decided Department of Labor because they know where our needs are for our children. Thank you. [LB248]

PRESIDENT FOLEY: Thank you, Senator Harr. As the Clerk indicated, there are amendments from the Business and Labor Committee. Senator Albrecht, as Chair of the committee, you're recognized to open on AM301 committee amendment. [LB248]

SENATOR ALBRECHT: Thank you, President Foley. Colleagues, AM301 addresses the technical note on the fiscal note to clarify the matching fund requirement. It states that no grant payments will be issued until the Commissioner receives evidence that the grant recipient has either received matching funds from another source or irrevocably committed the funds to the entity to be used equal to or greater than the amount of the grant award. The committee amendment also reduces the appropriation for the program, which was at \$20 million, to \$2.5

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million. And I want to just quickly let you know that this particular amendment...not the amendment but the actual bill, LB248, did come out, 4 ayes, 2 nays, and 1 present and not voting. Thank you. [LB248]

PRESIDENT FOLEY: Thank you, Senator Albrecht. Mr. Clerk. [LB248]

ASSISTANT CLERK: Mr. President, Senator Harr would offer AM936 to the committee amendments. (Legislative Journal pages 944-947.) [LB248]

PRESIDENT FOLEY: Senator Harr, you're recognized to open on your amendment. [LB248]

SENATOR HARR: Thank you. Thank you, Senator Albrecht, for voting this. I want to thank the members of the Business and Labor Committee for voting this bill out and for the amendment. Given our tough times, we did limit it from \$20 million to \$2.5 (million). And it's my understanding from the Speaker, unless I can find a way to self-fund this, it is probably going to sit here on Select. But, folks, we got to decide, are we going to cut our way to prosperity or are we going to invest in our youth? Children are our future and they are very valuable assets. They're the most valuable asset of this state. Do we want to leave some behind, or do we want to find ways to have our public and private come together and provide true help to our children? That's why I limited it to \$2.5 (million). I will also tell you I have a new amendment, which is AM936. I move...the intent from Section 2(3) of the underlying bill, which I previously explained in the opening, to the newly created Section 6. I wanted these intent objects to become the directive of how the grant dollars are to be used. The second change I made was I define what a qualified youth is. I added this definition to more narrowly define who I want to benefit from the dollars, grant dollars. Specifically, these grant dollars are to be used on youth between the ages of 16 and 24 who qualify for free and reduced lunches if they're in high school or receive federal Pell Grants. Those are the only changes I made. It was meant to clarify the bill a little. With that, I would ask for your support on AM936. Thank you. [LB248]

PRESIDENT FOLEY: Thank you, Senator Harr. Debate is now open on LB248 and the related amendments. Senator Linehan. [LB248]

SENATOR LINEHAN: Thank you, Mr. President. I'd like to thank Senator Harr. I think he just made a great argument for education reform. I tried to write down the numbers as he was repeating or telling us. I think the number that jumped out toward the end of his statement is that every year high school dropouts in the state of Nebraska, just in the state of Nebraska, cost us \$362 million. So it seems to me that we ought to find a way to make sure we don't have any kids dropping out of high school. He also said somewhere in his remarks that every kid doesn't fit into the normal classroom, the structures of the schools we've got, which is another reason I think we

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should look at education reform. I'm not sure exactly what this bill is supposed to do. We spend \$4 billion a year on K-12 education in Nebraska. That's property taxes and state aid, but it's \$4 billion a year. Ten years ago, according to the Census Bureau, we were--can't read my own writing--28th in the country, per pupil spending, 28th. Those were 2007...I'm sorry, 2008, ten years ago. In 2014 we were 16th in the country. According to Senator Groene, who's not here right now, his latest figures are 10th and 11th in the country in student spending. So the amount of money we're spending is not the problem. We also spend a tremendous amount of money on community colleges. And I understand that every child isn't destined to a four-year college education. I get that. But that's why we have, what, six, seven community colleges? And I didn't have time today. I should have worked on this further in advance, but Metro Community College's budget in 2016-2017 was \$98,927,752, which is a 14 percent increase over the last six years. So if we're spending almost \$100 million at one community college and \$4 billion a year in K-12 education, how is \$2.5 million or \$20 million more spent in yet another program going to help these kids get a job? And some of it's soft skills. I've managed kids. I worked, as I know you all know, I worked as chief of staff for Senator Hagel for not quite 12 years, also as campaign manager, and I hired bright, young kids right out of college, kids who had the advantage of going to good schools, good colleges, super students, cream of the crop, and I had to tell them to come to work on time, and some of it wasn't that easy. Kids have to be managed when they're new and they come to work. And every summer we would have 12 to 15 interns and I learned over time that the first thing I had to do is sit them down and tell them how to dress. You have employees, you have to lay out expectations. I think what we're missing, there was another...I read from the--if I can find it here--from the committee hearing, former Senator Greg Adams was one that testified. He talked about being at UNO one day and he talked to a group of kids and he said, let me see, when it was all over with I...oh, excuse me. I'll start up here. I'm sorry: And in many instances, blah, blah, blah, blah, and, frankly, we can go to a lot of our rural communities... [LB248]

PRESIDENT FOLEY: One minute. [LB248]

SENATOR LINEHAN: One minute. I'm sorry. Okay, I'll wait and yield my time back and pick up there next. Thank you. [LB248]

PRESIDENT FOLEY: Thank you, Senator Linehan. Senator Crawford. [LB248]

SENATOR CRAWFORD: Thank you, Mr. Lieutenant Governor, and good afternoon, colleagues. I rise in support of AM936 and AM301 and LB248. I thank Senator Harr for his work on this bill. We talk about economic development and what are our economic development tools in the state, and this bill, colleagues, focuses on investing in our future, investing in our youth. And I appreciate Senator Linehan's comments about the importance of overall education reform, but,

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colleagues, if you want to see what this bill does you can look at page 2 and you can see that this is not just trying to redo education. This is a targeted focus having public-private partnerships to really target on soft skills training. And, colleagues, I've been in many conversations with business leaders. They're talking about some of their challenges of meeting their workforce needs. And one of the issues that they raise are these soft skills. And talking to education leaders, even community college leaders, they talk about the fact that many of the soft skills that the businesses need are not really what you would expect a community college to offer credit for, nor what we probably would expect our high schools to be teaching in class, but yet they are critical work force skills. And so the question becomes, how to make sure that we have a work force that is able to meet those needs. As Senator Linehan noted in her work experience as a supervisor, she was proactive and working on those skills, which is great, and some employers may be doing that. This bill offers an opportunity for businesses to think creatively about how they might step up in a more intentional, proactive way to offer and provide those, that soft skill training to support their own work force or work with nonprofits in the community who are interested in helping to ensure that members of the community who are underemployed--and, again, here we're talking about youth so we're trying to get our youth off to the best start in terms of making sure they get those first jobs as 16-, 17-, 18-, and 19-year-olds, make sure they get a good job when they're starting their work career and are successful as they start their work career. And these soft skills are a critical part of them being successful for their own futures but also a critical part of making sure that our businesses in our state are successful and competitive. And so this is a very targeted, economic development, work force development tool to focus on those soft skills. And again, this is different than what we teach in school and in college. No doubt students do learn important skills like showing up on time and getting your work done in those places, but again we don't specify what that soft skill has to be. And those soft skills may look a little different in different industries and that's the great part of a bill like this, that allows the work force, allows the businesses or the nonprofits trying to prepare work force to decide what's most important for their work force needs, what's most important for their community in helping their youth meet work force needs and focus on those soft skills... [LB248]

PRESIDENT FOLEY: One minute. [LB248]

SENATOR CRAWFORD: ...and how to develop those soft skills. Thank you, Mr. President. So I urge your support of LB248. As the Speaker noted, we'll have to see what happens with the funding, but it's still critical to recognize this is a critical need, a critical economic development need, and this is an important policy to meet it. And even if we don't have the money now, it's important to have this conversation because part of talking about this and passing this bill as far as we can get it this year, is to send that signal to other folks, we care about soft skills and we care about public-private partnerships to develop that in our state. So, hey, partners, get ready. We want to work with you in the future to develop our youth and our work force and our economy. Thank you, Mr. President. [LB248]

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PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Erdman. [LB248]

SENATOR ERDMAN: Thank you, Mr. Lieutenant Governor. I listened to the comments of those people who have spoke before me. Not sure what exactly our schools are supposed to do if this is what a private, nonprofit has to do. When I was a county commissioner, the Extension Office came in and told us what they were doing to help with education. And one of the things they were doing was teaching the seniors how to manage their time, how to study, and how to be on time to things. They were trying to organize those young people so they knew what to do. My question to them was, what is the school supposed to do? That's the same question here: What is the school supposed to do? So these people drop out of school, okay? Now we're going to offer them an opportunity to go to this alternative school or training, whatever it is. And they're going to show up, right, because they showed up when they went to school. That's why they dropped out. I have no clue how we think we can fix everything in the world by giving some more money to some nonprofit that's going to figure out a way to educate people to go to work and show up on time. I'm not exactly sure where this money is supposed to go. Is Senator Harr here somewhere? I'd ask him a question if he was. [LB248]

PRESIDENT FOLEY: Senator Harr, are you on the floor? Senator Harr, would you yield, please? [LB248]

SENATOR HARR: Yes. [LB248]

SENATOR ERDMAN: Senator Harr, it says in there that the money will be given to an agency or a group or whoever it is, nonprofit, to do this instruction. Who are these people? [LB248]

SENATOR HARR: They can be anybody. You're only limited by your imagination. The purpose of the money is to find a public-private partnership that works at getting these kids the job skills and the education they need that for some reason or other they aren't able to obtain or aren't obtaining today so that they can have not just the hard skills but also the soft social skills. Senator Linehan earlier talked about her senator, pages and interns, who are the elite of the elite, 10 to 15 people a year, and they aren't prepared for the work force. And they come from, generally, good families, great families. What or how are our kids who are in the lower 10 percent, in the lower stratosphere, supposed to be prepared when they may not have that advantage at home of a parent who works full-time, of a parent that has a regular, stable job? So that's to help them become prepared to be...join the work force. [LB248]

SENATOR ERDMAN: I understand what you said there. But my question is how do you get those people to attend this? I mean if they wouldn't go to school, they dropped out of that, how are you going to get them to show up for work study or for employment skill training? [LB248]

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SENATOR HARR: Well, you know, I'm not a country person, but I understand you can force a horse to water but you can't force him to drink. We can make these programs available. It is my belief that kids don't want to fail. They want to succeed in life, but sometimes the tools aren't readily available for them. And this is to provide those tools and those abilities so that if a teacher or a parent starts to see their child go wayward, they can say, hey, have you thought about this? So often we have programs that are aimed at our youth and we say, okay, but by the time they're 16, if they aren't on the right track, we just write them off. And so this is a program that catches those kids that currently I think our society starts to write off and say, well, they're not going to graduate from high school. Go off and, you know, whatever. The purpose of this is to grab those kids. [LB248]

SENATOR ERDMAN: Okay. Thank you. The last part of that comment you made about you can lead a horse to water but you can't make him drink? [LB248]

SENATOR HARR: Yep. [LB248]

SENATOR ERDMAN: But you can put salt in his oats. Thank you. [LB248]

PRESIDENT FOLEY: Thank you, Senators Erdman and Harr. Senator Wayne, you're recognized. We'll come back to Senator Wayne. Oh, very good. [LB248]

SENATOR WAYNE: I am right here. Thank you, Mr. President. I won't go on my education rant today, but I am...I am not supportive of this bill as written. There's a couple reasons. One, I just was thinking about the need for soft skills and why it's important, and Metro Community College in my district actually offers classes on this. They have a whole section on employability skills, secret to success in business, employability skills for process power in energy-related fields. They even have specific fields on that. University of Nebraska offers a free course on soft skills in free trade that anybody can download and teach students. It doesn't require any additional skills. But what I hear the most out when I talk to employers is we can train them ourselves. We need to figure out how to train our employees the best way, and although those soft skills are sometimes barriers, I believe the key is to start in the classroom and in high school. For example, Omaha Public Schools, we are redoing Benson High School and recreating the old Tech High where students are going to work with union apprenticeship programs, as the electricians and learn how to be an electrician. We also have people who get their CNA licenses and we have many classes in which they get dual credit and union apprenticeship credits if they decide to go there. So rather than spend money, I'd rather see that money go back into the high schools where we have a captive audience and we have all the future of our employees coming out of rather than picking and choosing winners and losers in that area. I think there are some partnerships and private partnerships that I believe in. In fact, I introduced a similar bill of a fund

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that's already going on right now in the Department of Economic Development working with junior high kids. I introduced a bill to help fund that a little bit more and do a couple other things. But will Senator Harr yield to a question? [LB248]

PRESIDENT FOLEY: Senator Harr, would you yield, please? [LB248]

SENATOR HARR: Yes. [LB248]

SENATOR WAYNE: Senator Harr, underneath your proposals, would union apprenticeship programs be able to access these dollars? [LB248]

SENATOR HARR: Would a union...they...it is a nonprofit. I believe unions are nonprofit so, yes, they would be able to access this if they warrant through the grant process and they met the requirements of the bill. [LB248]

SENATOR WAYNE: They are a nonprofit, but there is a special designation and I wasn't sure when I read this bill. Were you talking about a 501(c)(3) or what a union is, which is slightly different? So I think we'd probably have to clear that up a little bit. I appreciate... [LB248]

SENATOR HARR: A union could form a nonprofit that then could take advantage of this, though. [LB248]

SENATOR WAYNE: Thank you. I have to agree with Senator Linehan on this that we are spending a lot of money in education and before we start moving to other things we have to look at what we're doing with our captive students and what they're currently doing in our schools. And I think I would invite any senator to come with me. We can take tours of Benson High School, Omaha North, and other schools that are offering not just trades but ways to develop soft skills. And again, I would check with your local community colleges and see how many classes are already out there on soft skills and developing a work force and employability skills. In this year of budget times, I think it's...we need to look at everything, but also we need to make sure that we are not overlapping or duplicating services that are already being provided by some of our institutions. And with that, thank you, Mr. President. [LB248]

PRESIDENT FOLEY: Thank you, Senator Wayne. Senator Harr, you're recognized. [LB248]

SENATOR HARR: Thank you, Mr. President. You know, Benson High School is in my district. I've been to Benson High School. I know Benson High school. Benson High School is doing great things. Guess what Benson High School's dropout rate is? You didn't hear that, did you? It

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has room for improvement. How do we capture those kids? I hear Senator Linehan say I want school reform, just not this. Why? Why not this type of school? This isn't school reform. This is grabbing the kids and saying, okay, Johnny, what's going on in your life? How can we form a program to get your life back on track? We have an interest in making sure that you receive a high school graduate diploma and that you go on to receive some sort of certificate or associate's degree or maybe a four-year college. But leave it up to the kid. Work with that kid. Form programs for that kid. You know, you don't change the world all at once. This is a small program, a start to see, hey, what is out there? What is working? I want changes just like Senator Linehan, just like Senator Wayne. I want to see how we can improve. And it seems to me the argument is, well, if you don't improve the way I want to improve or in the way I want to improve, then it's not improvement and I'd rather have the status quo. That's not what I'm trying to do here. I'm trying to figure out how do we get that salt in the horse's oats so that that horse wants to drink the water. That's what I'm looking to do with this program. It has a wide level of support within the community in Omaha. There are a number of programs, great programs in Omaha, that are helping our kids succeed. Former Chief Tommy Warren runs one of those. I encourage you to go talk to him, call him, ask him about it. There are others. But if the funding isn't there, you can't help them. Senator Wayne has a great program, his Trailblazers. He's executive director of it. He will tell you he teaches those soft social skills through the teaching of basketball. And his kids have a higher graduation rate than other kids of that same socioeconomic background. Why? Because he takes a special interest. You have some tutoring. You have someone looking over, taking an interest in that kid, making sure that kid goes to school every day, make sure that kid does his homework every night. Should we eliminate Senator Wayne's program? I don't think so. So, folks, I understand maybe I should have said a specific program, but I wanted to create something for the Department of Labor so that they could look and say, okay, where is the need? And it's with our kids who don't have the background that I had, who didn't have a parent who had a full-time job who went to work every morning and showed me a good work ethic, a mother who worked hard, who volunteered in the community, who had, I'll argue, a better work ethic, who worked hard, showed me how to dress, how to act day in, day out. Those aren't available to everybody. That's what we're trying to do with this bill--take the poorest and try to figure out how can we give them a leg up. Maybe that's a little too squishy for some people, but that's the purpose of this program and I would ask for your support on AM936. Thank you, Mr. President. [LB248]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Linehan. [LB248]

SENATOR LINEHAN: Thank you, Mr. President. Other percentages, data that Senator Harr was good enough to provide is about the number of people in prison that dropped out of college. And I don't have the numbers with me today, but I think they correlate very closely to the number of people in our prisons today in this state that are illiterate, because somehow they managed to go all the way through school or through the 8th grade and failed to learn how to read or, if they

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could read at least the word, they never got to the point where they read well enough to comprehend what they were reading. It's very hard if you're a kid and you're stuck in a public school system and you can't read. And you go past the 3rd grade, and all of a sudden you fall behind, and you work. And by the time you're in the 8th grade, by the time you're in the 9th grade, you're 15, 16 years old. You're pretty tired of being told that you're not working hard or that you're not trying. So I don't want to wait till these kids are 16 years old before we try to help them. They're pretty discouraged by 16. I'm old, but I can still remember being 16 years old. You think you're pretty grown up. You think you're ready for the world, you know, to go out and face the world. We all know now that you're not. But 16, if you are struggling in school in your sophomore and junior year and you're failing, why wouldn't you quit? If you can't read your homework, why would you hang around? So you can take Ds and Fs home to your mom and dad or your mom or just your dad? It's not...I understand why these kids drop out. We can't wait till they're 16 years old to try and help them. It's too late. I did find in my time here what I was trying to find before from Senator Greg Adams who spoke at the hearing on this bill. He said he was asked to speak at a business law...and I am quoting Greg Adams from the transcript. "I was asked to speak at a business law class at UNO and they were seniors and a handful of juniors." So this was college, UNO. When it was all over with, I said to the professor that invited me over, I said, I'm shocked. I said, I saw no ball caps in the room, no coffee cups in front of people's faces, no cell phones being used. He says, watch this. They don't get to leave my lecture hall until they shake my hand. And if they don't shake it the way it's supposed to be shaken, they get to the back of the line and get to try it again. They know contract law. And I guarantee you that before they leave here they also need to know how to fit in the workplace and get the job done. If this creates opportunity to learn for those kids, to incentivize business. So these skills can be taught in school. It takes a lot of work. And I'm not a teacher and I have the utmost respect for teachers and I know it's hard. I know they get up early in the morning and they run all day. And as one teacher told me, you think about it, you got a roomful of kids, you don't have time to go to the rest room between 8:00 in the morning and 4:00 in the afternoon. So I do not discount how tough these jobs are. But I think we need to encourage the teachers and help the teachers. I've talked to a lot of teachers. They need to be let loose to do what they know they can do for these kids. And we need to encourage them and know that they are their greatest hope. I think OPS, LPS, they have difficult student groups that they have to work with. I understand that. But I also believe, I think I'm right and I don't know if there's someone who can answer this on the floor--there's extra money in aid for the schools that have a large percentage of low income kids, free and reduced lunch. [LB248]

PRESIDENT FOLEY: One minute. [LB248]

SENATOR LINEHAN: Our TEEOSA formula gives them extra money and I understand that and I agree with that. But I think we should hold some accountability that because they're getting the funding because these kids are coming from backgrounds that are tougher, then they need to

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have some programs and they can't wait until they're 16 years old or 15 years old, I'd even say 14 years old. These kids have got to be helped when they get to school when they're in kindergarten, 1st and 2nd and 3rd grade. They've got to get the right start. If you don't start them right, it's not going to do any good to catch up later. We have examples. Patty Pansing Brooks and I have talked about this many times. She's had experience in her family with dyslexia. I've had experience (inaudible). If you're from a tough family that believes in themselves and they have the financial wherewithal and, more than financial wherewithal, the strength to believe in themselves, you can struggle through dyslexia. [LB248]

PRESIDENT FOLEY: Thank you, Senator. [LB248]

SENATOR LINEHAN: Thank you, sir. [LB248]

PRESIDENT FOLEY: Thank you, Senator Linehan. Senator Halloran. [LB248]

SENATOR HALLORAN: Thank you, Lieutenant Governor. Fellow legislators, I couldn't...Senator Linehan took a lot of the air out of my sails on that one, because she said everything I was thinking about talking about but she said it far more eloquently. I would like to ask Senator Harr if he will yield for just a few minutes. [LB248]

PRESIDENT FOLEY: Senator Harr, would you yield, please? [LB248]

SENATOR HARR: Yes, I will yield to Senator Halloran. [LB248]

SENATOR HALLORAN: What brand of gum do you prefer? [LB248]

SENATOR HARR: What's that? [LB248]

SENATOR HALLORAN: What brand of gum do you prefer? I'm just curious. [LB248]

SENATOR HARR: A soft chewing gum, any kind. [LB248]

SENATOR HALLORAN: If you have some, I'd like some later. Could you...I've heard "soft skills" said so many times, I find it hard to roll it off my tongue anymore. Can...soft skills, we're going to spend \$20 million on soft skills. Can you take part of my remaining time to teach us a little bit about soft skills? [LB248]

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SENATOR HARR: Yeah. Thank you. I appreciate that. So when I graduated college, I went to...I joined the Jesuit volunteer corps and I worked... [LB248]

SENATOR HALLORAN: Senator, Senator, if you don't mind, I have no soft skills. Could you teach me some soft skills? Where would we start? [LB248]

SENATOR HARR: There would be one--interrupting people. Probably you shouldn't do that, so that's one we're talking about. So what it is, is...and I'm getting to that, is a lot of people to get a job, the basics that you and I take for granted: showing up on time, dressing appropriately. I'll never forget I had an interview with a woman when I was...this is a law student and I had an interview with a law student. I was a lawyer. And she showed up in a cocktail dress because she didn't understand the difference, a dress is a dress; didn't understand the subtleties of the difference between a cocktail dress and business attire. It's about showing up on time. It's about, hey, what is expected of me at work? Should I be doing the minimum? Should I be doing more? I don't feel like coming into work today. Well, too bad. You got to come in and you got to give 100 percent effort. Even something so simple as I'm not used to having money in my pocket. I have money in my pocket now. How do I open a checking account? How do I save? If I know that I have an expense coming up or that my car is on its last leg, how do I save up for that? Or, I know I need to buy a new car. How do I budget for that new car? How do I pay my electricity bill? These are things you and I take for granted. It's what Senator Linehan said. It's shaking someone's hand, looking them in the eye. And you and I, again, take this for granted. We...it's how we were raised. That's not always true. When you are in poverty, sometimes you are...most of the time you live in survival skills. You are just trying to get to the next day, to the next paycheck. And if you have money in your pocket, you spend it. So a lot of soft social skills is also delayed gratification. Right? How do I delay that gratification for something bigger and better down the road. Those are some of the skills we're trying to teach. Does that answer it for you? [LB248]

SENATOR HALLORAN: It's not \$20 million worth, but it was a good start. [LB248]

SENATOR HARR: Well, how about \$2.5 (million)? [LB248]

SENATOR HALLORAN: Two point five (million dollars) is fine. You mentioned that...Benson's dropout rate. Could you tell us what that is? [LB248]

SENATOR HARR: I don't know what Benson is specifically, but I know they have high school dropouts, right, and there are programs within the school now that are helping to address that. And they raised those kids' graduation rates, those kids that participate in those programs that already exist. So why wouldn't we grow those programs? [LB248]

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SENATOR HALLORAN: Okay. Thank you for your time. Twenty million dollars is a lot of money, folks. It's not a small amount of change. I would like to know who this will ultimately go to. We don't know. We won't know until it's in place and engaged. I think this is more of a report card on education than it is postgraduate work. [LB248]

PRESIDENT FOLEY: One minute. [LB248]

SENATOR HALLORAN: What we need is...time? One minute? I think we've got a need for soft skills but we need hard academic skills. And I think we have...not blaming the teachers here because they have been granted too many things to do other than teach. I agree with Senator Linehan on that. But I think a focus on hard academic skills, we can intermix the soft, quote unquote, skills into our everyday teaching opportunities. So thank you, Mr. President. [LB248]

PRESIDENT FOLEY: Thank you, Senator Halloran and Senator Harr. Senator Friesen. [LB248]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. I will agree with Senator Linehan on several of the issues here. I mean we have spent a lot of time talking about K-12 education, and where I've kind of focused on is how we provide the money for it. But we look at the success of that program and we keep talking about the high dropout rates that are there and the abilities that they do end up graduating with and sometimes we're pushing them out without teaching them how to read. And so when I look at this, I mean it does seem as though we've failed in our K-12 system if we have to (inaudible) talking about this after they've reached that age group. So when I look at this, we focus a lot on advanced college courses and we push kids to do that. And yet in the end, most of our kids, we're not teaching them life skills. And I think those are one of the basics that our K-12 system should be teaching, because not everyone is going to attend a trade school or go on to a four-year university. But when they do graduate, I would hope they would at least have some life skills that they could survive with. Because as industry needs workers, they will train those workers. There will be that public-private partnership where they will take this young person under their wings and they will send them to community college for...if they're worthy of it. But when I've traveled around my district, the biggest complaint is, you're right, people don't even show up for work. They can't get someone that shows up on time regularly. This is partly a failure of our high schools. The dropout rate needs to be corrected. That's a failure of our K-12 system. But in the end, when a child graduates from high school they should at least be able to do physical labor to where someone would hire them and see that potential in something that they enjoy doing and be willing to further their education in a public-private partnership, in that way, where the state wouldn't have to be involved. You know, we've created career academies for people, for kids so that they can try to focus on what they might want to do when they graduate. I think it's an opportunity there. I don't know that I fully feel that it's needed, because, in the end, we still haven't ended up teaching some of these kids life skills

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that they need to survive. But I won't say that it's a bad thing. I mean I was a community college graduate. I was not university material. So I think there is that definite need there and so I won't pass judgment on the career academies that we form. But again, to do another program just seems like we duplicate and keep pouring money into it. You look at what the community colleges, the cost alone, 120 percent over ten years in property tax dollars alone, plus we have added more state aid to community colleges. There has to be a point where money doesn't buy an education anymore. The system needs some reform. Thank you, Mr. Lieutenant Governor.
[LB248]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Wayne. [LB248]

SENATOR WAYNE: Thank you, Mr. President. And I just want to be clear here that I support the concept. I just don't like the mechanism which it's going through. I believe that employers and schools typically have the best procedures or processes in place to help us develop our work force. We talked to a corporation. They know how to train their students. So I'm real concerned about that. But when I did have my last rant...I guess let me clarify something. Senator Harr, I am not the executive director of the Trailblazers. I'm a volunteer board president. I wish I was because then I would get paid doing the job, but I don't. I'm also a volunteer coach. I don't receive any fund...money from it, nor do we receive state funding. We do that and raise our own dollars, so there's a big difference there than what this bill is doing. But what I'd rather see happen and actually, when I made my rant that day about OPS and every committee needs to be a part of it, I started writing out community...committee interim studies. And what I have for Business and Labor is actually around this issue. Let's study what jobs are needed in Nebraska over the next five or ten years. What employees are doing to create and fill those jobs and where are the gaps. And then we pull in the community colleges and the high schools and the school districts, particularly in Douglas County where I'm living and focused on, and figure out how do we close those gaps between the needs and the supply when it comes to employees. I think by adding a middleman, or a middle woman, of a nonprofit trying to do that convolutes that process. We need to have an interim study from the Business and Labor that will key in on those issues. Because right now in Omaha we can find 200 to 300, I've heard as many as 400 nurses that could be hired tomorrow, and yet in my community we still have census tracts that have 25 percent unemployment. What do we need to do to link those two? So the concept that Senator Harr has introduced I, 110 percent, agree with. I'm just not sure if nonprofits are the way to go until we have a clear vision of what the issues are and the barriers to those issues. So that's what I would like to see is an interim study on this issue somewhat, but broader, understanding what the needs are for the jobs and what those gaps are. I think that's an easier way of figuring it out. And maybe we come back and we still have the same idea of a nonprofit, because nonprofits sometimes are closer to the community, and I understand that. But I think it's important for us to understand that maybe it's better to deal with the businesses. Maybe it's better to tap in to what school districts should be doing. Maybe it's better to work with the community colleges. Or

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maybe it's better to pull them, all three, together and have a streamlined process to get that done. So that's what I'm looking forward to. Again, I support the concepts. I'm just not sure of the vehicle. And here's why. There was an organization in Omaha that spent \$60 million over six years to deal with education issues. And after \$10 million a year, they virtually said, on the front page of the World-Herald they did not move the needle one bit. Now had that have been taxpayers' dollars, we would all be upset about that. And so before we cross that line, we need to make sure there are the processes in place to ensure what Senator Harr and I both agree on--the concept--can be done. [LB248]

PRESIDENT FOLEY: One minute. [LB248]

SENATOR WAYNE: Before we waste--I don't think we will waste because something will happen, but before we go to that particular nonprofit that I remember on the front page of the World-Herald saying, after six years and \$60 million, we did not move the needle, we have to be stewards of the dollar to make sure the processes are in place. And the best way to do that is to have an interim study so we know exactly what target markets. And maybe it's a process where we target nurses one year, then we target a different field the next year. But we put out a five-year plan to move our state to the next level and make sure we fulfill the jobs that are needed. Thank you, Mr. President. [LB248]

PRESIDENT FOLEY: Thank you, Senator Wayne. Senator Linehan. [LB248]

SENATOR LINEHAN: Thank you, Mr. President. I think the number I've heard on nurses, and I've heard this from the chancellor of UNMC and head of nursing at Children's Hospital, is statewide we are 4,000 nurses short, 4,000. It's hard to...and that's reflective of a problem across the nation. There are nurses short in Virginia and all over the country. So I would be very interested in working on this. I know that we have institutions and hospitals that are all facing this. But again, I'm going to...I know, sound like a...beating a dead horse. I think that's another farm saying that I remember from my childhood. You can't wait till a kid is 15 years old to see if they're going to be a nurse. If you're going to be...go to school to be a nurse, you're going to have to be a good student. It's hard to get into nursing school. It's a tough job. They work...talk about another group of people that work hard and in crisis situations almost all the time, difficult jobs. There's a lot of burnout with nurses too. But by the time that child gets to junior high, they need to have a foundation that they can go on through high school and get the grades that they need to get into college. And again, not every kid needs to go to college. But if you hand a college or an employer or a community college a kid at 17 or 18 years old that can read and write at least fairly well and can comprehend what they read and has some math skills, the employers will find a way to make them work in their needs. Employers, all of us, anybody that's ever employed people, and it's not just young people, I mean managers, I'm sure we can make a lot of money if

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we could discover a way to make sure all your employees come to work on time every day, nobody ever calls in sick, and they always dress right. Those are day in, day out things management and those are the kinds of things. But if you...you can't give back the kid the years between 6 and 12 and 13 and 14 years old if they lose those years. Another thing, I think Senator Harr quoted a study that was done, in his opening statement, prepared for "accelerate Nebraska," February 2016. And what they found in that study is enrollment rates at community college for developmental education, meaning that they had to have remedial math and/or reading and English before they could continue with their courses at community college. At Central Community College, 25 percent of the students had to have remedial math and 28 percent remedial reading and English. These are high school graduates, not dropouts. In Mid-Plains, 32 percent of the students had to have remedial math, 18 percent remedial reading. And Southeast Nebraska, 40 percent of the kids had to have remedial math, 28 percent of the students remedial reading and English. Northeast Nebraska Community College, 62 percent of the students needed remedial math, 38 percent of the students needed remedial reading and English. At Metro, 66 percent of the kids needed...excuse me, students needed remedial math and 19 percent needed remedial reading and English. At Western Community College, 70 percent of the kids needed remedial math and 21 percent reading and English. [LB248]

PRESIDENT FOLEY: One minute. [LB248]

SENATOR LINEHAN: So if these are the kids that are going to community college, you have to wonder about the kids who just left high school to go get a job. It's a fact in our world today...and I, you know, you used to be able to walk into a restaurant and apply for a job and they'd send you back in the back and have you do dishes and if you were good at dishes, you could be a busboy. And if you were good at being a busser, you could wait tables. And some day you might even get to, you know, manage the restaurant. But today you have to go on-line and fill out an application before they'll even talk to you for almost any job. It's all on-line. You have to write a description why you want the job or a little bio of yourself. You're not going to be able to do that if you can't write. So again, I do appreciate what Senator Harr is trying to do and I know he's concerned about these young people, as we all are. I think we're all just trying to get to the right place. [LB248]

PRESIDENT FOLEY: Time, Senator. [LB248]

SENATOR LINEHAN: Thank you. [LB248]

PRESIDENT FOLEY: Thank you, Senator Linehan. Senator Brasch. [LB248]

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SENATOR BRASCH: Thank you, Mr. President, and a good late afternoon, colleagues. As I'm listening to the dialogue and speaking about gaps that students may have in being prepared for the work force, I am compelled to give a shout-out to my district and Senator Schumacher's district, because at Wisner-Pilger School--our districts share that school--they work with their seniors before they graduate. And in fact, it's a private partnership. The businesses contribute and others where, besides coursework, they serve a dinner that may be several courses so students are comfortable when they do go out to eat with someone. They have you go to a mock interview with a banker, a senator, you know, and others. And so before I can support something like this, I would like to see how often does this take place, because I believe that many of our schools are doing similar programs where they do prepare students through their high school counselor. And so I think we need more information on is this being done, does it need to be legislated. I also have another question, if it is appropriate to ask, Mr. President, to yield to a question. Can the President yield to a question by rules? [LB248]

PRESIDENT FOLEY: No, I don't think that would be appropriate, Senator. Thank you. [LB248]

SENATOR BRASCH: Well, I understand it's your birthday today and my soft skill says we should all wish you a happy birthday, Mr. President. [LB248]

PRESIDENT FOLEY: That's very kind of you, Senator. Thank you. Thank you all very much. It's an honor to serve with all of you. [LB248]

SENATOR BRASCH: I have no other questions. Thank you, colleagues. [LB248]

PRESIDENT FOLEY: Thank you, Senator Brasch. Senator Harr, you're recognized. [LB248]

SENATOR HARR: Thank you, Mr. President. I've enjoyed the conversation here today. I would love to say that LB248 solves all our world's problems or at least in our education system. It doesn't. It's a start. It's a small start. Senator Halloran, I wish it were a \$20 million start; it's not. If we adopt these amendments, it's a \$2.5 million start. But luckily, because of the way we have it drafted, it's really a \$5 million start. And it's getting our private sector involved with our kids. Instead of people chastising and saying, you aren't doing anything, what are you doing, we say to those nonprofits and to those business entities, come aboard, join us, let's link arms and find a way to work together so that we can help our kids because, folks, they are our tax base. You throw them away, you lose that tax base. And I want to go over what this program does. It's funding to employers and nonprofits. Okay? And it allows you to teach young people the soft skills, like in personal attributes and interpersonal skills necessary to succeed in school, assist in identifying, developing young people to fulfill the demands for skilled workers in the state. It provides career counseling to assist young people in analyzing marketable skills and connecting

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those skills with current jobs that are in demand, and occupations as well. It develops marketable skills and competency to increase earning power, a.k.a. tax base, and secure jobs for young people, and it engages employers in preparing the young people to gain that employment. So it's a two-way street. It can't be one way. I heard Senator Wayne wanted to do an interim study. I get that. But, folks, what he wants to do, those ideas aren't revolutionary. Those are already occurring in the state. We have WIOA and we have job training, so that's already occurring. What Senator Wayne advocated for we're already doing. We don't need an interim study. We just need to go over to the Department of Labor. They got all that information. DED has all that information. It's available to us today. But right now we have a disconnect between our young students and a good middle-class paying job. And we're losing kids. You want to cut taxes, and I do, you want to grow this state, and I do, the best way to do that is to increase our GDP. We got two ways to do that. We can either import a bunch of new workers from other states, or we can take our kids that we have now. We're a low unemployment state. We have jobs out there. We're losing our kids. Let's educate those kids. Let's prepare them for the work force so that jobs move here. They say, hey, Nebraska, yeah, that work ethic is great there, I want to move there. Their education system, their kids graduate ready to succeed. They have the skills, not just the hard skills but the soft skills, to succeed. And by the way, their kids know what they want. They don't just muddle around from job to job. They're driven, they're hardworking. That's what this does. Is it going to do it completely? No. It's a start. But it's a major start and when we see this success, others will emulate it. [LB248]

PRESIDENT FOLEY: One minute. [LB248]

SENATOR HARR: I always hear about we need more public-private partnerships. This is a public-private partnership. I hear, hey, why are we making our schools do that, whether it's Senator Vargas' bill yesterday or others. Gosh darn it, our school should only be teaching reading, writing, arithmetic. We put all these other mandates; we shouldn't do that. This is helping take some of that burden off our schools. So I'm going to ask for your support. It doesn't solve the world's problems. I wish it did. Maybe next year, my last year here, I'll have that bill. But all I'm asking is for your support on this bill today, on AM936, which again limits that it goes to poverty kids. And then, you know, this will sit on Select and maybe I can amend it next year to solve all the world's and educational problems. Thank you. [LB248]

PRESIDENT FOLEY: Thank you, Senator Harr. Items for the record? [LB248]

ASSISTANT CLERK: Thank you, Mr. President. Your Committee on Government, Military and Veterans Affairs reports LB382 to General File. Education reports to LB634 to General File. Your Committee on Enrollment and Review reports LB148, LB182, LB207, LB210, LB407, LB518, LB518A, LB566, and LB590, all placed on Final Reading. New resolutions: LR91 and

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LR92 by Senator Kolterman, both calling for interim study resolutions. Reference Committee reports on the reference of various gubernatorial appointments. (Legislative Journal pages 947-949.) [LB382 LB634 LB148 LB182 LB207 LB210 LB407 LB518 LB518A LB566 LB590 LR91 LR92]

And finally, Mr. President, a priority motion: Senator Bostelman would move to adjourn until Thursday, April 6, 2017, at 9:00 a.m.

PRESIDENT FOLEY: Members, you heard the motion to adjourn. All those in favor say aye. Those opposed say nay. We are adjourned.