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Floor Debate
February 21, 2018

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PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirtieth day of the One Hundred Fifth Legislature, Second Session. Our chaplain for today is Pastor Ron Drury of the Shepherd of the Hills Church in Hickman, Nebraska, Senator Baker's district. Please rise.

PASTOR DRURY: (Prayer offered.)

PRESIDENT FOLEY: Thank you, Pastor Drury. I call to order the thirtieth day of the One Hundred Fifth Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

PRESIDENT FOLEY: Thank you, sir. Any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

PRESIDENT FOLEY: Thank you. Any messages, reports, or announcements?

CLERK: Your Committee on Enrollment and Review reports LB275 as correctly engrossed. Select File reports LB874 to Select File. Revenue Committee reports LB966 and LB1090 to General File. Amendments to be printed: Senator Hilgers to LB299; Senator Ebke to LB299; Senator Watermeier to LB44. That's all that I have, Mr. President. (Legislative Journal pages 683-688.) [LB275 LB874 LB966 LB1090 LB299 LB44]

PRESIDENT FOLEY: Thank you, Mr. Clerk. (Doctor of the day introduced.) While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following two legislative resolutions, LR315 and LR316. Now we'll proceed to the first item on the agenda, legislative confirmation reports. Mr. Clerk. [LR315 LR316]

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CLERK: Mr. President, the Natural Resources Committee reports on two appointments to the Environmental Quality Council. (Legislative Journal page 626.)

PRESIDENT FOLEY: Senator Hughes, you're recognized to open on the first of your confirmation reports.

SENATOR HUGHES: Thank you, Mr. President, and members of the Legislature. I present for your approval the re-appointments of Lance Hedquist and Robert Hall to the Environmental Quality Council. Mr. Hedquist and Mr. Hall came before the Natural Resources Committee on February 1. The Environmental Quality Council was created by the Legislature in 1971 as the public body that adopts rules and regulations for the Department of Environmental Quality to administer. The council consists of 17 members who are appointed by the Governor to serve staggered, four-year terms. Mr. Hedquist serves in South Sioux, Nebraska, and has been the city administrator for over 30 years. He also serves on the University of Nebraska's President's Advisory Council. He is fulfilling the municipal representative position on the council. Mr. Hall lives in Wahoo, Nebraska, and is employed as a labor union representative with Heat and Frost Industries. He and his wife own an antique business in Weston, Nebraska. He is filling the labor position on the council. The Nebraska Legislature has delegated authority to the council to adopt the regulations on the board, broad range of environmental subjects to carry out the intent of the Legislature and the purpose to specify legislative acts. The council has, for example, adopted standards applicable to air, water, and land quality to protect public health and welfare. In addition, the council has adopted regulations that govern various environmental programs, practices, and procedures related to permitting sources that have potential to discharge or emit pollutants into the environment. The committee advanced both Mr. Hedquist's reappointment and Mr. Hall's reappointment by an 8-0 vote. I ask for your confirmation of Lance Hedquist and Robert Hall to the Environmental Quality Council. Thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Hughes. Debate is now open on the confirmation report. Seeing no discussion, Senator Hughes, you're recognized to close. He waives closing. The question for the body is the adoption of the confirmation report from the Natural Resources Committee. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: (Record vote, Legislative Journal pages 688-689.) 35 ayes, 0 nays on adoption of the report.

PRESIDENT FOLEY: The confirmation report is adopted. Next confirmation report, Mr. Clerk.

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CLERK: A second report from Natural Resources involves the appointment of Ryan McIntosh to the Environmental Trust Board. (Legislative Journal page 626.)

PRESIDENT FOLEY: Senator Hughes, you're recognized to open on the second confirmation report.

SENATOR HUGHES: Thank you, Mr. President, members of the Legislature. I present for your approval the appointment of Ryan McIntosh to the Nebraska Environmental Trust Board. Mr. McIntosh came before the Natural Resources Committee on February 1. He is a new appointment for...this is a new appointment for Mr. McIntosh as he is looking to represent District 1 on the board. Mr. McIntosh is an attorney at Mattson Ricketts Law Firm and focuses on water and natural resources law as a hunter and outdoor enthusiast. He is president of the Otoe County Pheasants Forever and a hunter and outdoor enthusiast. He is passionate about the conservation work that the Environmental Trust Board does in our state and wants to be part of that. Mr. McIntosh also serves as the legislative chair of the National Guard Association of Nebraska. The Nebraska Environmental Trust was established in 1992 to conserve, enhance, and restore the natural environments of Nebraska. It was created on the conviction that a prosperous future is dependent on a sound, natural environment, and that Nebraskans could collectively achieve real progress on real environmental issues if seed money were provided. The trust especially seeks projects that bring public and private partners together collaboratively to implement high-quality, cost effective projects. The trust values projects that leverage private investment in conservation and emphasize long-lasting results. The committee advanced Mr. McIntosh's appointment by an 8-0 vote. I ask for your confirmation of Ryan McIntosh to the Nebraska Environmental Trust Board. Thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Hughes. Debate is now open on the second confirmation report. Seeing no discussion, Senator Hughes. He waives closing. The question for the body is the adoption of the confirmation report from the Natural Resources Committee. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: (Record vote, Legislative Journal pages 689-690.) 35 ayes, 0 nays on adoption of the report.

PRESIDENT FOLEY: The confirmation report from the Natural Resources Committee is adopted. Next report, Mr. Clerk.

CLERK: Mr. President, Natural Resources has a third report involving two appointments to the Environmental Quality Council. (Legislative Journal page 646.)

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PRESIDENT FOLEY: Senator Hughes, you're recognized to open on your third confirmation report.

SENATOR HUGHES: Mr. President, members of the Legislature, this is my last report for the morning. I present for your approval the reappointments of Rod Gangwish and Mark Czaplewski to the Environmental Quality Council. Mr. Gangwish came before the Natural Resources Committee on February 7 and Mr. Czaplewski's hearing was on February 8. The Environmental Quality Council was created by the Legislature in 1971 as the public body that adopts rules and regulations for the Department of Environmental Quality to administer. The council consists of 17 members who are appointed by the Governor to serve staggered four-year terms. Rod Gangwish lives and farms near Shelton, Nebraska. In addition to serving on the Environmental Quality Council, he serves as a member of other councils and is a member of many other associations, including President's Advisory Council for the University of Nebraska, Ag Builders of Nebraska, Nebraska Farm Bureau, Nebraska Corn Growers Association and the Nebraska Soybean Association. He also serves on the Board of Directors of KAAPA Cooperative and he is filling the crop production position on the council. Mark Czaplewski lives in Grand Island, Nebraska, and works as a biologist at the Central Platte Natural Resource District. Mr. Czaplewski also has served on the Environmental Quality Council since 2005 and looks forward to continuing to serve on the council and working diligently to help protect our water, air, and other natural resources. Mr. Czaplewski is also a member of the Platte River Recovery Implementation Program and the Nebraska Habitat Conservation Coalition. It will come as no surprise that he is fulfilling the biologist position on the council. The committee advanced both Mr. Gangwish's reappointment and Mr. Czaplewski's reappointment by an 8-0 vote. I ask for the confirmation of Rod Gangwish and Mark Czaplewski to the Environmental Quality Council. Thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Hughes. Is there any discussion on the third confirmation report from Natural Resources Committee? Seeing none, Senator Hughes. He waives closing. The question for the body is the adoption of the confirmation report from the Natural Resources Committee. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: (Record vote, Legislative Journal page 690.) 35 ayes, 0 nays, Mr. President, on adoption of the report.

PRESIDENT FOLEY: The third confirmation report of Natural Resources Committee is adopted. (Visitors introduced.) Next confirmation report, please.

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CLERK: Mr. President, the Judiciary Committee reports on the appointment of Layne Gissler to the Nebraska Board of Parole. (Legislative Journal page 680.)

PRESIDENT FOLEY: Senator Ebke, you're recognized to open on the confirmation report.

SENATOR EBKE: Thank you, Mr. President. And if I might take a moment here, we're running shorthanded in my committee today. Our committee clerk's sister is having surgery on a brain tumor as we speak, so we are running a little bit frazzled. I bring to you today the confirmation report on Layne Gissler. He has been appointed by Governor Ricketts to serve on the Board of Parole. He's a lifelong Nebraskan who has a degree in sociology and over 22 years of correctional experience. The committee advanced his appointment on a unanimous vote and I would encourage the confirmation. Thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Ebke. Debate is now open on the confirmation report from the Judiciary Committee. Senator Chambers.

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I would like to ask Chairperson Ebke a question or two about the nominee.

PRESIDENT FOLEY: Senator Ebke, would you take some questions, please?

SENATOR EBKE: Yes.

SENATOR CHAMBERS: Senator Ebke, do you know this individual personally?

SENATOR EBKE: I do not.

SENATOR CHAMBERS: Do you know anything about his history in terms of having maybe run afoul of the law himself?

SENATOR EBKE: I don't believe I do.

SENATOR CHAMBERS: Do you think it's possible that such may have happened?

SENATOR EBKE: Well, I suppose anything's possible, but I have heard nothing of that. Thank you.

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SENATOR CHAMBERS: If it had happened, do you think that the Governor would have appointed him?

SENATOR EBKE: I highly doubt it.

SENATOR CHAMBERS: And if it had happened but he slipped through, do you think he would have acknowledged it before the committee?

SENATOR EBKE: I would hope so. He seemed to be a very straightforward person.

SENATOR CHAMBERS: Now, the Parole Board conducts hearings to determine whether somebody may be released on parole, whether somebody is put off, whether a later hearing date will be set up. Is that generally what they would do?

SENATOR EBKE: It is.

SENATOR CHAMBERS: Senator, would you expect somebody who did not know how to swim to be a swimming instructor?

SENATOR EBKE: No.

SENATOR CHAMBERS: Would you expect somebody who knows nothing about judo to be a judo instructor?

SENATOR EBKE: I would not.

SENATOR CHAMBERS: If this individual has never been convicted of a crime and served time, then how is that he would be in a position to judge whether or not somebody should be released? In your opinion.

SENATOR EBKE: Well, I think his experience as a corrections officer, as a behavioral, in a security position gives him some unique experience with that population.

SENATOR CHAMBERS: But when he was a corrections officer, he was on the outside of the bars, is that correct?

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SENATOR EBKE: True enough.

SENATOR CHAMBERS: The only ones who will come before him would be those who are on the inside of the bars, would you agree?

SENATOR EBKE: I would agree.

SENATOR CHAMBERS: So despite having any experience in the area where he is supposed to make decisions, you think that he's qualified for this position?

SENATOR EBKE: I do.

SENATOR CHAMBERS: I'm going to show you the confidence I have in your judgment based on what you've told me. I'm going to vote to approve the nomination of this totally unqualified person.

SENATOR EBKE: Thank you, Senator Chambers. (Laughter) I appreciate the confidence.

PRESIDENT FOLEY: Thank you, Senators Chambers and Ebke. Is there any further discussion? Seeing none, Senator Ebke, you're recognized to close on the confirmation report. She waives closing. The question before the body is the adoption of the confirmation report of the Judiciary Committee. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

CLERK: (Record vote, Legislative Journal pages 690-691.) 37 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

PRESIDENT FOLEY: The confirmation report is adopted. Moving on, on the agenda. General File, 2018 senator priority bill. Mr. Clerk.

CLERK: Mr. President, LB439 was a bill originally introduced by Senator Wishart. (Read title.) Introduced on January 17 of last year. At that time referred to the Health and Human Services Committee. The bill was advanced to General File. I do have committee amendments pending, Mr. President. (AM1013, Legislative Journal page 1113, First Session, 2017.) [LB439]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Wishart, you're recognized to open on LB439. [LB439]

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SENATOR WISHART: Thank you, Mr. President. Colleagues, I'm here today to introduce LB439, and I know as senators we're not supposed to play favorite to any of our legislation, but I would have to say this one of my favorite children. Representatives of assisted-living facility consumers, assisted-living facility providers, and assisted-living employees began meeting about three years ago to try to determine how we can improve the delivery of assisted-living services. After meeting for a period of time it was determined that progress towards that goal was complicated by the current provisions of the Assisted-Living Facility Act. A basic flaw in the act is that it effectively bans nurses who are employed by an assisted-living facility from providing simple healthcare services that fall within their scope of practice to facility residents. Nebraska law has created a licensed healthcare facility that aggregates frail, primarily old Nebraskans in a location, but prevents nurses employed by the facility from performing simple nursing tasks to meet their healthcare needs. The fundamental change that LB439 offers is to allow, but not require, an assisted-living facility to employ a nurse who would be able to provide healthcare services to residents. Under current law, nurses may assess residents of an assisted-living facility and they are required to oversee the management of medications for assisted-living facility residents, but that is the limit of their ability to practice in an assisted-living facility if they are employed by that facility. The nursing ban was designed to establish a bright line between assisted-living facilities and nursing facilities. It was an attempt to create a black and white distinction between the two facility types. However, the needs of older Nebraskans who need residential care often fall into a gray area. We need a statutory framework that allows assisted-living facilities to effectively meet the needs of their residents. Nebraska needs an efficient and effective long-term care system. The demands in that system will grow by an unprecedented degree beginning in less than ten years. In 2026, the oldest baby boomer will reach the age of 80. While the need for long-term care can occur at any age, its prevalence begins to spike around the age of 85. While we have made progress towards building an efficient and effective long-term care system in Nebraska, we aren't there yet. To get there, we need to be cognizant of those who need long-term care services but do not require 24-hour nursing care. I believe this is a critical issue in the development of our state's long-term care system. And I would like to thank Senator Kolterman for prioritizing this important piece of legislation and to the working groups who have spent years working on this change. I especially want to thank a woman named Rosalee Yeaworth who's been working on this for over ten years. Thank you, and I'd be happy to answer any questions, and I look forward to the debate. [LB439]

PRESIDENT FOLEY: Thank you, Senator Wishart. As the Clerk noted, there are amendments from the Health and Human Services Committee. Senator Riepe, you're recognized to open on those amendments. [LB439]

SENATOR RIEPE: Thank you, Mr. President, colleagues, and Nebraskans. LB439, the committee amendment, AM1013, was voted out of the HHS Committee on a 7-0 vote. AM1013 adds a definition for part-time, intermittent basis of not to exceed 10 hours each week for each

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resident for a period of time with a predictable end within 21 days. This was determined to be a more appropriate limit on brief nursing care than the original proposed 28 hours each week. It would relocate and expand current definitions and make a clear distinction between the services that we can provide in independent senior housing and those allowable in assisted living. The amendment would allow the assisted-living nurse to retain the ability to perform a residential assessment of the resident for the purpose of admission or retention as is allowable under current statute. The amendment also clarifies nursing intervention and would be provided by an employee of the assisted-living facility, not by the facility itself. I ask your support for the HHS committee amendment, AM1013, and I yield the balance of my time to Senator Wishart if she so chooses. [LB439]

PRESIDENT FOLEY: Thank you, Senator Riepe. Senator Wishart, you've been yielded about eight minutes, if you need it. [LB439]

SENATOR WISHART: Thank you. Thank you, Senator Riepe, for your work on this legislation. I wanted to take a moment to actually read the testimony of Rosalee because I think this is...she's an example of how this legislation will help senior citizens. So she's been working on this for 17 years, and she says, I'm testifying in favor of LB439. After many years of managing my husband's early onset Alzheimer's at home, I decided to place him in a special care unit for memory care in a new facility only five minutes from home. That was in 2000. I had been led to believe that an RN would be in charge of the unit, so I was shocked to learn that it was an LPN in charge and that medication aides, with no knowledge of the action of drugs potential interactions, gave my husband his medicines. He couldn't even remember if he had taken them, let alone direct their administration, which was a claim of why medication aides with training only in giving the right medication to the right person at the time by the right route were permitted to give medications. I decided to see what Nebraska law said about staffing an assisted-living facility, and I learned that not only did the law not require any registered nurses, even in memory care units with very vulnerable people, but it essentially prevented a registered nurse who was hired by the facility from practicing. It stated that the facility would not provide any complex nursing intervention, which is merely any intervention that requires nursing judgment to modify a procedure. Any professional who can't use their judgment, can't practice. I'm not sure why such a stipulation was put into law, but it wasn't because people who can get along quite well in assisted-living never need an RN's judgment. Shortly after my husband was admitted, the whole memory care unit came down with a severe pink eye infection so severe I had to take my husband to an eye specialist. During my husband's stay, he had pneumonia, two urinary tract infections, all requiring hospitalization, all recognized by this nurse, but not by all the staff. I am personally aware of two individuals who died unnecessarily because they didn't have the benefit of an RN's judgment. As soon as I learned about the assisted-living law restricting the practice of RNs hired in assisted-living facility, I started to try to change it and to require RNs to be in charge of memory care units with their vulnerable people...where there are

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vulnerable people with dementia. It was probably 2002 when Senator Deborah Suttle first introduced a bill for us, then Senator Marian Price. Senator Gwen Howard did sponsor a bill that was...part of it was enacted that required assisted-living facilities to disclose information to applicants for admission, including information about staffing, so they would not be surprised as I was. Usually the Nebraska Healthcare Association would oppose allowing nurses to practice in assisted-living facilities, but when Heath Boddy assumed a leadership position in the Nebraska Healthcare Association, he set up a diverse group of people representing different interest groups trying to solve this difference. Mark Intermill, with much persistence and patience, worked with the different interest groups on the bill to be submitted to remove the restrictions on nursing practice in assisted-living facilities. The bill does not require any assisted-living facility to provide an RN, it just permits those that are staffed with RNs to let them practice in their scope as needed, and it allows residents of these facilities that have an RN to have a limited number of nursing hours. Right now, it's very difficult to find an empty room in a nursing home in Omaha with all the rehab they're handling. I can personally attest to that. It's late in the session and priority bills have been selected, but I implore you to move this bill to get it quickly as possible into law. Don't leave RNs working in assisted-living facilities unable to give needed services to people in those facilities. Nebraska is behind many states in this. Thank you. [LB439]

PRESIDENT FOLEY: Thank you, Senator Wishart. Mr. Clerk. [LB439]

CLERK: Mr. President, Senator Kolterman, I had AM1487, but I have a note you wish to withdraw that. Mr. President, Senator Kolterman would move to amend the committee amendments with AM2047. (Legislative Journal pages 691-692.) [LB439]

PRESIDENT FOLEY: Senator Kolterman, you're recognized to open on AM2047. [LB439]

SENATOR KOLTERMAN: Good morning, colleagues. Thank you very much, Mr. President. AM2047 is really a way to take care of the fiscal note that's associated with this bill. As we... [LB439]

PRESIDENT FOLEY: Excuse me, Senator. (Gavel) Members, please come to order. Senator Kolterman. [LB439]

SENATOR KOLTERMAN: As we started looking at this bill we looked at several ways to eliminate the fiscal note. We had several meetings with Health and Human Services. Didn't really feel it was necessary. All that they're asking for is to be able to put somebody in the nursing homes on a regular basis to interview the nurses and make sure that they're working within their scope and checking on them. Well, from my perspective, they should already be doing that, and I think if you look at the fiscal note it was like \$57,000. We couldn't get them to

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change that, so we started looking at ways that we could pay for that. We even thought about the idea that we could change the effective date of the bill. That's the one we just pulled that amendment. But what this bill does, it takes it from the cash fund of the Nebraska Medicaid Intergovernmental Trust Fund. We'll fund the balance after the Nebraska Healthcare Cash Fund for the first two years takes care of it. The reason we feel that this bill is so important is the fact that when you're in a full-blown nursing home, there's a lot more expense that goes along with that. If you're in assisted-living facilities, the cost reduces dramatically. The goal, in my perspective is, if we can keep people in assisted living for a longer period of time, we can save the state a lot of money through our Medicaid funding process. There's no question that assisted living is considerably less, and it just makes good sense to utilize the services of a nurse, give the institution the ability to utilize a nurse that they're licensed to practice within the full scope of their license. And so with that, we came up with this amendment, AM2047. After...if we get this approved, then it will come back with a different fiscal note and it will go right into the budget area process two years from now. We really think that long term this can save the state a lot of money and would actually encourage you to support this amendment. Thank you very much. [LB439]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Debate is now open on LB439, the committee amendment, and the amendment to the committee amendment. Senator Ebke. [LB439]

SENATOR EBKE: Thank you, Mr. President. Senator Wishart, I have a question for you. [LB439]

PRESIDENT FOLEY: Senator Wishart, would you yield, please? [LB439]

SENATOR WISHART: Happily. [LB439]

SENATOR EBKE: It will be an easy one, I think. Are you a healthcare professional? [LB439]

SENATOR WISHART: No, I am not. [LB439]

SENATOR EBKE: Can you tell me where this bill came from? [LB439]

SENATOR WISHART: This bill came from the Health and Human Services Committee. It came out of that committee or are you asking who brought it? [LB439]

SENATOR EBKE: Who brought it to you? [LB439]

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SENATOR WISHART: A group of healthcare professionals and the AARP. [LB439]

SENATOR EBKE: Okay. Thank you. I wonder if Senator Riepe would yield to a question. [LB439]

PRESIDENT FOLEY: Senator Riepe, would you yield, please? [LB439]

SENATOR RIEPE: Yes, I will. [LB439]

SENATOR EBKE: Senator Riepe, are members of your committee, I know you've got experience in healthcare directly, are the other members of your committee what you would call assisted-care or assisted-living experts? [LB439]

SENATOR RIEPE: I would not clarify any of us, including myself an, quote unquote, expert. [LB439]

SENATOR EBKE: Okay. And is your legal counsel or any member of your staff a health...an assisted-living expert? [LB439]

SENATOR RIEPE: My legal counsel has background in elder care, so in that sense there is knowledge. [LB439]

SENATOR EBKE: So I'm curious in light of some of the discussions that we had yesterday on LB299, what kind of expert input was given before we decided to change this licensing because that seemed to be one of the things that we were stuck on yesterday is that the Legislature can't...the legislative committees can't make these decisions. [LB439]

SENATOR RIEPE: Well, we were looking primarily with the association that is responsible for long-term care that's, you know, Heath Boddy's organization of Nebraska home care, and I know he worked very closely with Senator Wishart in putting this together. So we looked to them in terms of what was trying to become something reasonable and workable, and that's where the committee came up with the revised hours. [LB439]

SENATOR EBKE: So we have taken into consideration the input and the expertise of those who have experience and who have brought that to the committee. It doesn't actually require the committee or the staff to be experts, is that what you're telling me, to make the policy? [LB439]

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SENATOR RIEPE: Well, certainly the committee, just like your committee, cannot be an expert in everything that we do. I think we're knowledgeable. I happened to work in the healthcare field for nearly 40 years and was the chief operating officer over a 120-bed nursing home so, and home healthcare. So, you know, from an administrative standpoint, I might lay claim to some expertise, to some. But to the specifics of getting down to who is assessed and approved, we have to rely on good, other experts to get that judgment, to make that judgment. But I think we did that. [LB439]

SENATOR EBKE: Thank you for making my case, Senator Riepe. Thank you, Mr. President. [LB439]

PRESIDENT FOLEY: Thank you, Senators Riepe and Ebke. Speaker Scheer. [LB439]

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. Colleagues, I have the list of priority bills, the Speaker priorities that will be handed out very shortly. I tried to do my best to provide a vast array of bills that would be considered by the floor. I decided to use my personal priority on one of those that were requested as well. So I had 26 bills to disseminate among the body, and there are 24 different senators that had bills prioritized via Speaker bills. There are some that I will be honest that I don't know that I necessarily support, but that's okay. They deserve to have some time on the floor as well, and perhaps to be passed. I tried not to let my own personal biases come in the way of perhaps what could be good legislation, so you will see the list as is presented. Again, we had, I believe, 32 or 34 senators present Speaker requests. Some of you, Senator Wayne, had eight requests, (laughter) so obviously he did not get eight designations. But for those of you that did not receive them, I just ran out of numbers. There aren't necessarily bad bills, we just didn't have enough priorities to go around. So from that respect, I apologize if you did not receive one. Those that did, it's your lucky day, and it's the state's lucky day because some of these were just bills that I thought probably had a general effect on the state of Nebraska and needed to move forward, but probably didn't raise to the level of a personal priority. So there will be some that are disappointed, some that are not, but I did the best I could, so I appreciate your support in moving these bills forward. Thank you, Mr. Lieutenant Governor. [LB439]

PRESIDENT FOLEY: Thank you, Mr. Speaker. Continuing discussion on the bill. Senator Kolterman. [LB439]

SENATOR KOLTERMAN: Good morning again. Thank you very much, Mr. President. As I indicated, I rise in support of this bill. Really, several years ago I had the opportunity to serve on the Intergenerational Poverty Task Force when Senator Campbell was Chair of the HHS Committee. And one of the things we looked at was Medicaid and the idea that our long-term

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care facilities, a high percentage of our Medicaid patients are paid for by the state, and I believe the number that was used at that time was over 50 percent of the people that are in nursing homes are actually paid for by the state of Nebraska. So that when this bill came along, it really got me to thinking about, well, this is a great opportunity where we can save some money. To answer some of your concerns, Senator Ebke, I appreciate your bill yesterday, but there was a lot of input that went into this. If you look at the information that was handed out, the people that served on Assisted-Living Collaborative Task Force were Nebraska Assisted Living Association, Nebraska Nursing Facility Association, AARP of Nebraska, Nebraska Action Coalition, Nebraska Hospital Association, Nebraska Department of Health and Human Services, LeadingAge Nebraska, Nebraska Nurses Association, Nebraska Hospice and Palliative Care Association, Licensed Practical Nurse Association of Nebraska, the Nebraska Medical Association. And there were also, as it indicates, many additional valued contributions by many other people. This is good legislation. It really can help our senior members of our constituents. It can help the communities that have these assisted-living facilities, and long term it will help the state of Nebraska by easing some of the burden of the cost associated with paying for long-term care. Again, we need a green light on all of this. I appreciate that. Thank you very much. [LB439]

PRESIDENT FOLEY: Thank you, Senator Kolterman. (Visitors introduced.) Is there any further discussion on the bill, committee amendment, or amendment to the committee amendment? Seeing none, Senator Kolterman, you're recognized to close on your amendment. He waives closing. The question for the body is the adoption of AM2047. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB439]

CLERK: 35 ayes, 0 nays, Mr. President on the adoption of the amendment to the committee amendments. [LB439]

PRESIDENT FOLEY: AM2047 has been adopted. Further discussion. Seeing none, Senator Riepe, you're recognized to close on the committee amendment. He waives closing. The question for the body is the adoption of the committee amendment, AM1013. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB439]

CLERK: 36 ayes, 0 nays on the adoption of committee amendments. [LB439]

PRESIDENT FOLEY: Committee amendments are adopted. Further discussion on the bill as amended. Senator Albrecht, you're recognized. [LB439]

SENATOR ALBRECHT: Thank you, President Foley, and members. Senator Wishart, would you just yield to a quick question? [LB439]

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PRESIDENT FOLEY: Senator Wishart, would you yield, please? [LB439]

SENATOR WISHART: Yes. [LB439]

SENATOR ALBRECHT: Knowing how a lot of the nursing homes had come to us with problems on how they would run their facility and how they are pretty well-strapped, so would we be...this would automatically with the amendments, allow them, not allow them, but mandate them to have a nurse come in for about ten hours a week, is that what you're proposing? [LB439]

SENATOR WISHART: So this is specific to assisted-living facilities, not nursing homes, and what this would allow is for them when they hire a registered nurse, for that nurse to be able to practice with his or her full scope. [LB439]

SENATOR ALBRECHT: So it doesn't have anything to do with a nursing home, just an assisted living, but aren't most assisted living, nursing homes? [LB439]

SENATOR WISHART: There's actually a pretty clear distinction between assisted living and nursing home facilities. Nursing home facilities are for more intensive patients, so it's more 24-hour nursing care. Assisted-living facilities are more independent living, but, again, they do oftentimes have registered nurses on staff. It's just currently those nurses are not allowed to practice within their full scope of practice. [LB439]

SENATOR ALBRECHT: So are most of the homes that you were talking about, I didn't see them, like on a list? It was more the nurses saying that they would like to have the ability to help these folks. [LB439]

SENATOR WISHART: So actually the group that worked on this was...included the Nebraska Assisted Living Association, AARP, hospital, nurses association, the healthcare association, which includes nursing homes as well on the handout I gave you. So it was a lot of effort to get everyone in the room on the same page, and this has taken years. [LB439]

SENATOR ALBRECHT: So, just kind of walk me through. So the nurses that are now at these facilities can only administer, in your eyes, just the medication for these people, but they can't do anything more than that? [LB439]

SENATOR WISHART: No, so let me give you an example. Say I am in an assisted-living facility and I fall and I cut myself enough that it needs to be bandaged. Currently, and there's a registered nurse on staff, that nurse would not be able to bandage my arm. They would either, that person,

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the senior in that facility, would either have to hire out a nurse to come in and do that, or they would have go to the hospital to be treated. So the...well, this is your time, sorry. [LB439]

SENATOR ALBRECHT: I spent a lot of time with my mother in and out of both type of facilities, and I can't imagine, number one, that there wouldn't be a nurse there to assist. My mother fell out of bed and they obviously assisted very well and got her to the hospital, but I'm not quite understanding because the administration has nurses there, but what if...so you're going to let these institutions know that you have to have these nurses on staff. [LB439]

SENATOR WISHART: They don't have to. It's just... [LB439]

SENATOR ALBRECHT: Is it an option? [LB439]

SENATOR WISHART: It's an option. There's no requirement that they have to have a registered nurse. There are many assisted-living facilities that will choose not to have an RN on staff, probably because of the cost, but those that currently have RNs on staff, those RNs are not allowed to practice within their full scope of practice. So all this does is say, if you're in an assisted-living facility and you choose to hire an RN to be on staff, they're allowed to practice within their full scope of practice for a set...a limited amount of hours per week. [LB439]

SENATOR ALBRECHT: Another thing I experienced is that the nurses that were in administering the meds to my mother... [LB439]

PRESIDENT FOLEY: One minute. [LB439]

SENATOR ALBRECHT: ...she was able to just do that, but if anything else was going on, the administration would call in a doctor to come and visit. So would that nurse be able to let that doctor know what the needs are or would the administration even follow that protocol that you need to listen to that nurse because she's the one that's been with the patient. [LB439]

SENATOR WISHART: Yeah, so, I mean, the goal would be that this nurse would be able to provide as much preventive care as possible, so that patients don't need to go to the hospital or end up needing to go into a nursing facility. And, again, the Department of Health and Human Services oversees the licensing of all of this, so there are already steps in place that make sure that nurses and healthcare providers in these facilities are meeting the requirements. [LB439]

SENATOR ALBRECHT: Thank you. [LB439]

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SENATOR WISHART: Thank you. [LB439]

SENATOR ALBRECHT: Thank you, President Foley. [LB439]

PRESIDENT FOLEY: Thank you, Senators Albrecht and Wishart. Senator Wishart, you're recognized. [LB439]

SENATOR WISHART: Thank you. I just wanted to quickly close by telling a story, and I think this story is probably familiar to a lot of the senators in this body. When I was knocking doors, I spent two years knocking doors, and it became...I became pretty quickly aware that one of the most vulnerable populations in District 20 were senior citizens. I remember, I would knock on people's doors, and I was the first person they'd seen in a week, first person they talked to in a week. I'd come in and I'd spend time with them, and they were so isolated. I remember one woman, she had experienced flooding in the south bottoms, and she's totally alone. No family support. All of her belongings were just upstairs in boxes, and she was kind of living amidst all of that. And it made me realize that there comes a time when seniors in this state are isolated. They don't have family support. Some of them dealing with early onset dementia, and they really would flourish and live much better in a sort of assisted-living community. And so this bill is really important to me because this is going to help those people, and I see their faces right now who I met, that if they move into these assisted-living facilities to make sure that they get the best care possible. So thank you. I encourage the body to support this very important piece of legislation and vote green. Thank you. [LB439]

PRESIDENT FOLEY: Thank you, Senator Wishart. Was that your closing, Senator Wishart? Members, you've heard the debate on LB439. The question before the body is to advance the bill to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please, Mr. Clerk. [LB439]

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of the bill. [LB439]

PRESIDENT FOLEY: LB439 advances. Items for the record, please. [LB439]

CLERK: Thank you, Mr. President. Appropriations Committee chaired by Senator Stinner reports LB861 to General File with amendments. Urban Affairs chaired by Senator Wayne reports LB889, LB890 to General File, and LB709 to General File with amendments. Confirmation reports from Natural Resources, two separate reports. The list of Speaker priority bills, Mr. President, as announced earlier, (re: LB104, LB117, LB379, LB596, LB697, LB702, LB714, LB724, LB729, LB741, LB745, LB751, LB760, LB803, LB827, LB865, LB901,

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LB903, LB906, LB923, LB940, LB957, LB1091, LB1098, and LB1121) and Reference report referring gubernatorial appointee to standing committee for confirmation hearing. An announcement, Urban Affairs will have an Executive Session at 10:00 under the south balcony; 10:00 Urban Affairs. That's all that I have, Mr. President. (Legislative Journal pages 693-699.) [LB861 LB889 LB890 LB709 LB104 LB117 LB379 LB596 LB697 LB702 LB714 LB724 LB729 LB741 LB745 LB751 LB760 LB803 LB827 LB865 LB901 LB903 LB906 LB923 LB940 LB957 LB1091 LB1098 LB1121]

PRESIDENT FOLEY: Thank you, Mr. Clerk. We'll now proceed to the next bill. Mr. Clerk.

CLERK: LB776 is a bill by Senator McCollister. (Read title.) Introduced on January 3 of this year, referred to the Judiciary Committee, the bill was advanced to General File. There are committee amendments pending, Mr. President. (AM1687, Legislative page 470.) [LB776]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator McCollister, you're recognized to open on LB776. [LB776]

SENATOR MCCOLLISTER: Thank you, Mr. Lieutenant Governor, and good morning, colleagues. LB776 is my personal priority bill this year. The bill was advanced by the Judiciary Committee on a vote of 7-0 with one member absent. The bill has no fiscal impact for state government... [LB776]

PRESIDENT FOLEY: Excuse me, Senator. Members, please come to order so we can hear the speeches. Thank you. Senator McCollister. [LB776]

SENATOR MCCOLLISTER: Continuing, LB776 would address two concerns. First, the high cost of phone service for Nebraskans behind bars in county and city facilities. And, second, the right to have a confidential phone call with your attorney, even if you are behind bars. These concerns were the focus of LR208, a study I introduced with the ACLU of Nebraska, which researched the issue extensively during the 2017 interim. The research found that county jails are allowed to receive unlimited commissions from phone companies with no limits on rates for intrastate calls and no caps on surcharges. The commission on surcharges were way beyond reasonable. It's important for people behind bars to retain lifelines to their families and their attorneys. Studies have shown that maintaining contact with the outside reduces chances for reoffending, so keeping family ties strong strengthens the offender's chances of being rehabilitated and it also improves outcomes for children of the incarcerated. Incidentally, 60 percent of incarcerated women are mothers. Nebraskans who are impacted by these issues aren't who you might think they are. On any given day half of the county jail detainees in Nebraska are pretrial detainees who are still presumed innocent. But all offenders, whether convicted or not,

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and whether charged with a serious felony or a misdemeanor have the need to stay in touch with their parent, their spouse, and their children. Keeping them in touch with their homes is good for them and good for public safety. Of course, city and county jails have expenses associated with housing people and LB776 would allow them to continue to charge for phone service. Last year a state survey of county jails by the ACLU revealed that a 15-minute phone call might cost anywhere between \$2 and \$20. For example, assuming four 15-minute phone calls per week in Saline County, the charges were \$318.24, \$275 more than Douglas and Sarpy Counties where the charges were \$41.76. In Buffalo County, the same four 15-minute call cost \$161.00. The three largest phone call providers in Nebraska are: Encartele, which serves 26 counties with an average cost of \$7 to \$10 for 15 minutes of service; Protocall, which serves 15 counties, with an average cost of \$14 to \$19 for 15 minutes; and Securus, which serves five counties, with an average cost of \$8 to \$14 for the same 15 minutes of phone service. In contrast, Lancaster County has a cost of 21 cents per minute to call out, and 25 cents per minute to call collect. That is about \$50 per month for four 15-minute calls a week. The county uses IC Solutions Advanced Technology. LB776 would ensure that city and county budgets are not based on the assumption they will be making a profit from detainees and their families. Reasonable rates would be determined by the Jail Standards Board, an independent body of state government. Again, rates would be determined by the Jail Standards Board, an independent body of state government. The other significant focus of LB776 is ensuring that the Sixth Amendment, the constitutional right to counsel, is protected by making sure phone calls between lawyers and their clients behind bars are treated as truly confidential. At the public hearing last month, more than one testifier spoke about calls with their accused clients being recorded. In fact, one testifier reported that 59...59 of his calls with a client were recorded by the sheriff and provided to the prosecutor. That's not right. No one can prepare properly for their upcoming trial if it can't be sure they are speaking to their attorney without the other side recording those calls. The interim research found that most of the facilities do charge for calls to attorneys at the same rates charged for family members. Twenty-seven counties provide a free call to any attorney, with eight more counties will allow a free call to a public defender, but not to a legal aid or family attorney or the ACLU or their worker comp attorney, and 13 counties have no written policies about confidentiality. And several counties reported, we record everything, including attorney calls, but we promise that we won't go back and listen to them. The Nebraska Department of Correctional Services has proven that quality phone service can be provided without excessive charges that far exceed reasonable cost. LB776 properly asks the city and county jails meet the same standards. Thank you, Mr. Lieutenant Governor. [LB776]

PRESIDENT FOLEY: Thank you, Senator McCollister. Mr. Clerk for an announcement.
[LB776]

CLERK: Mr. President, Judiciary is having an Executive Session right now underneath the north balcony. [LB776]

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PRESIDENT FOLEY: Thank you, Mr. Clerk. As the Clerk noted, there are amendments from the Judiciary Committee. Senator Ebke, if we can pull you from Exec Session and ask you to introduce the committee amendment, please. [LB776]

SENATOR EBKE: Thank you, Mr. President. I apologize. LB776 modifies the legal requirements for county and city jails...jail inmates, as Senator McCollister suggested. There is a committee amendment. AM1687 replaces the word "their" t-h-e-i-r in two locations and replaces it with "an attorney or." Okay? Rather than "their attorney" it says "an attorney or." This is to clarify that the intent of the bill is to facilitate communications with attorneys generally, not only an attorney who has been...already been retained as counsel in a particular matter. With that in mind, I would ask for the approval of AM1687 to LB776. [LB776]

PRESIDENT FOLEY: Thank you, Senator Ebke. Debate is now open on LB776 and the pending committee amendment. Senator Blood. [LB776]

SENATOR BLOOD: Thank you, Mr. President. I would ask that Senator McCollister would yield to a question. [LB776]

PRESIDENT FOLEY: Senator McCollister, would you yield, please? [LB776]

SENATOR McCOLLISTER: Absolutely. [LB776]

SENATOR BLOOD: Senator, if LB776 is enacted, can you tell me please what will happen to the existing phone contracts that are in place in county or city jails? [LB776]

SENATOR McCOLLISTER: Thank you, Senator Blood, for that question. I do want to put on the record that existing contracts should be carried through. However, I would hope that counties wouldn't extend those contracts...would not extend those contracts beyond the time this bill is enacted. [LB776]

SENATOR BLOOD: Thank you, Senator McCollister. I would like to add that I do rise to support both the amendment and Senator McCollister's bill. Thank you for answering that question. [LB776]

SENATOR McCOLLISTER: Thank you. [LB776]

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PRESIDENT FOLEY: Thank you, Senators Blood and McCollister. Is there any further discussion on AM1687? Senator Williams. [LB776]

SENATOR WILLIAMS: Thank you, Mr. President, and good morning, colleagues. And I would ask again if Senator McCollister would yield to a question. [LB776]

PRESIDENT FOLEY: Senator McCollister, would you yield, please? [LB776]

SENATOR McCOLLISTER: Yes, I will. [LB776]

SENATOR WILLIAMS: Thank you very much. And, again, I rise in support of this legislation, have been contacted by a couple of the county sheriffs that are concerned about one piece and I would just like to more fully have this explained. There are certain services that the profit that is currently being made on these phone calls is being used for in the counties that I serve. For instance, they are using the profits to pay for the Westlaw access for their inmates, they're using it to pay for cable TV, they're using it for magazine subscriptions and paper subscriptions, additional clothing that oftentimes is needed. And their concern is where are those products and services going to come from, where is the money that's going to come from to pay for those in the future if they don't have some profit from this? Can you explain what your concept and thoughts are on that, Senator McCollister? [LB776]

SENATOR McCOLLISTER: Yes, Senator Williams, thank you for the question. There's nothing in this bill that prohibits the use of the surplus funds for these services for inmates. And I think when we start talking about the rates, which my next amendment will deal with, you'll see that we're talking about reasonable rates and so I think there will still be some surpluses that the counties and cities can certainly use at their discretion. [LB776]

SENATOR WILLIAMS: So there's the potential that we're not eliminating any surplus from the use of phones. So there could be additional funds left over that could provide some of these special services to inmates, is that the case? [LB776]

SENATOR McCOLLISTER: That's correct, Senator Williams. I would expect that most counties will have surplus funds after we apply this amendment and you'll see, which I think makes the bill even more reasonable. [LB776]

SENATOR WILLIAMS: Thank you, Senator McCollister, and thank you, Mr. President. [LB776]

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PRESIDENT FOLEY: Thank you, Senators Williams and McCollister. Senator Groene. [LB776]

SENATOR GROENE: Thank you, Mr. President. I stand in opposition to LB776. You will hear that my sheriff endorsed it as the president of the (Nebraska) Sheriff's Association, but he said they want an amendment on the reasonable part. And I asked him, I said, are you sure you can get a commission yet or a bonus that you pay for your pizza night and cable TV? He said yeah, it's in the bill. I said, let me read you the language: Reasonable operating costs for establishing and administrating such telephone services system or videoconferencing system. Amounts in excess of reasonable operation costs include, not may include, but are not limited to any commission or bonus payment for contracting with an entity to provide such service. That's plain language, there will no longer be commissions or bonuses. That's fine with me. I want an old quarter pay phone like the good old days in the lobby, because it says in this bill that all they have to do is have collect...they can get collect calls. So maybe that's the service we need to go back to. I'm a big proponent of probation, rehabilitation, but I'm also a proponent of punishment. Crime looks more appetizing every day, free room and board, air conditioning, cable TV, phone service paid for. Mom can call you any time, any time of the day or night, girlfriend, taxpayers pay for it. Looking better all the time. I'm going to check, but I heard rumors that in the state prison we're giving everybody an iPad. Did you know that? They can call. They're monitored. They want Syype (sic: Skype) now, too. Imagine what that's going to be like. More employees at the state prison to monitor what's going on. This is a bad bill. As Senator Kremer said, a lot of sheriffs are lowering rates on their own, searching for more equitable costs, but that's a local decision. This bill puts a mandate on local control again on local jails, takes away a funding source that was used by sheriffs for rehabilitation. It's not necessary, it's a feel good. This is a lawyer's dream. This is an ACLU dream--reasonable cost, reasonable operating costs. Guys on death row look back 30 years ago, was that phone bill reasonable? Throw it out. Who gets to define reasonable? The court system? I haven't seen any amendment. Maybe when we see it, it might fix some of this. This is a bad bill, an unnecessary bill, it's a feel good bill. It's unnecessary. It's being handled locally. You do not have a right to a phone when you're in jail. That's not a basic need. You do not have a right to a cheap phone. And how long is it going to be before reasonable is defined as free. You get the right judge, it will be defined as free. Here goes the property taxes locally, because we got to be nice to the criminal. The reason you're in jail is you're being punished, you're being sent a message, change your ways. And then we don't care how many phones you own and how many phone calls you make. Stay free, stay out of jail,... [LB776]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: One minute. [LB776]

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SENATOR GROENE: ...and you will be fine. This is unnecessary. Let's not...this is just another mandate back to the local counties. We do not need this bill. I'll look at the amendment, but it better be clear and it better straighten this up about the commissions and bonus payments, because right now you don't get any for providing that service. Thank you. [LB776]

SPEAKER SCHEER: Thank you, Senator Groene. Senator Kolowski, you're recognized. [LB776]

SENATOR KOLOWSKI: Thank you, Mr. President. Senator McCollister, would you stand for a question, please? [LB776]

SPEAKER SCHEER: Senator McCollister, would you please yield? [LB776]

SENATOR McCOLLISTER: I will, Senator, thank you. [LB776]

SENATOR KOLOWSKI: Thank you very much. I wanted to ask you, Senator, what other states are doing and do you have categories of where they would be as far as similarity to your bill? [LB776]

SENATOR McCOLLISTER: Senator, I'm not aware of what other states are doing, but I do know that the survey taken by the ACLU showed that some counties were charging egregious amounts of money for jail telephone calls. You're talking about prisoners and their families who are hard up to start with and then to all of a sudden charge them these obscene rates is just not right. Besides, Senator, I would tell you that there is a right to telephone call your attorney and that's guaranteed with the Sixth Amendment. So those phone calls need to be free. And that's guaranteed, as I say, with the Sixth Amendment so that is a requirement and all counties need to comply with that. And those phone calls, Senator, need to be private. They shouldn't be given to the sheriff and they shouldn't be certainly given to the prosecutor. Thanks for the question, Senator. [LB776]

SENATOR KOLOWSKI: Thank you. And when someone was listening in or those were recorded, was there a follow-up as far as any particular use of those in courts that you know of or that would be defaming to the prisoner? [LB776]

SENATOR McCOLLISTER: Actually those particular case--and I think it was Hall County--they recorded 59 calls. And, as I indicated in my initial testimony, those calls were given to the sheriff and then he transferred them to the prosecutor. And the prosecutor assured the prisoner

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and his attorney they did not listen to the calls, but that's...I think they're on shaky ground if they have given it to the prosecutor in any case. [LB776]

SENATOR KOLOWSKI: I agree. It's real shaky ground and I have a lot of questions when I hear those kind of things that are taking place. Thank you very much, Senator McCollister, appreciate it. [LB776]

SPEAKER SCHEER: Thank you, Senator Kolowski and Senator McCollister. Senator Ebke, you're recognized. [LB776]

SENATOR EBKE: Thank you, Mr. President. I want to try to correct a few things. First of all, those who are in jail are not necessarily...have not necessarily been found guilty of anything. Many times people who are in jail are awaiting trial, they've been arrested and we have a presumption of innocent until proven guilty in this country. And so constitutional rights, human rights suggest that they ought to have a right to an attorney and that they ought to have a right to get in touch with their attorney at no cost. There is an article that I think Senator McCollister sent around at some point from the World-Herald which defines some of these incidents that have happened. Ben Murray, who was one of the public defenders who has defended some folks in Hall County that was just represented. Again, professional ethics require that those particular calls not be heard and that if a prosecutor hears those calls or hears anything in those calls, must inform and that it's generally inadmissible. It's very important for us to follow due process and it's important for all of our elements in the criminal justice system, whether one is in jail awaiting trial, whether one has been sentenced to a period of jail, you still have a right to call your attorney. And so I stand in support of both the Judiciary Committee amendment and Senator McCollister's LB776. [LB776]

SPEAKER SCHEER: Thank you, Senator Ebke. Senator Hilkemann, you are recognized. [LB776]

SENATOR HILKEMANN: Thank you, Mr. Speaker. I wonder if Senator McCollister would yield to a question. [LB776]

SPEAKER SCHEER: Senator McCollister, would you please yield? [LB776]

SENATOR MCCOLLISTER: I certainly will. [LB776]

SENATOR HILKEMANN: Senator, I think that you may have received...I know maybe most of us in Douglas County received a memo from our commissioners that they oppose this bill

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because of the amount of money that they would not have for the reentry system into this...for their reentry programs that they were doing. Has this concern by the commissioners been dealt with? [LB776]

SENATOR McCOLLISTER: Yes, sir, it has, and thank you for the question. I met with Mary Ann Borgeson, a commissioner; Sean Kelley, who is the lobbyist; and the administrator of the county facilities. And we talked about, number one, the costs that they're receiving or the overages that they're currently receiving, which total about \$600,000. And we also, more importantly, talked about a bill that came out of the Judiciary Committee last Thursday that I think some folks would like to see attached to my bill. I haven't agreed to attach any bill and they were greatly relieved. With regard to the rates, the Jail Standards Board is going to set the rates. And when they do set those rates they're going to look at the FTC for intrastate calls. And I'm fairly certain, based on the numbers that I've seen, both Sarpy and Douglas Counties are going to be well within the rate structure that the Jail Standards Board set up. So I think we dealt with both issues Senator. And I received that assurance from the lobbyist late yesterday, so I'm not sure they still have an objection to the bill. [LB776]

SENATOR HILKEMANN: Can we assure that this is not going to affect that reentry program that these funds have been directed to? [LB776]

SENATOR McCOLLISTER: Well, Douglas County, they've decided to support that part of the reentry program, which I hardly endorse, but what they do with their money is entirely up to them. And so I hope they'll continue that program, but it's up to them to decide what programs to support or not. [LB776]

SENATOR HILKEMANN: Thank you, Senator McCollister. I would yield any additional time to Senator McCollister, if he would like it. Thank you. [LB776]

SPEAKER SCHEER: Senator McCollister, 2 minutes, 25 seconds. [LB776]

SENATOR McCOLLISTER: I'd just like to say that I understand the rates are important, particularly to some of the rural jails. And I appreciate that the Jail Standards Board will be judicious in terms of how they set up the rates. Certainly, some of the smaller facilities are going to have a different kind of rate structure than some of the larger facilities. You have certain economies of scale that take place in some of the larger facilities, so I'm satisfied that we'll come up with something fair. It won't be this body that will determine the rates, it's the Jail Standards Board. And they can look to the FCC rates as a guide to determine what's a proper and decent rate for the counties. Thank you. [LB776]

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SPEAKER SCHEER: Thank you, Senator Hilkemann and Senator McCollister. Senator Chambers, you're recognized. [LB776]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I start some of the things I say with these words: I've been here a long time, and this morning I've heard some of the most disturbing words that I've heard. First of all, I'm surprised that Senator Hilkemann would talk about taking money from these phone calls to underwrite programs that Douglas County correctional facility wants to operate. They are not supposed to extort money from these prisoners. Senator Groene talks about punishment. Obviously, he knows nothing about penology. When the Nebraska Supreme Court struck down the electric chair, they said in their decision that even as we punish, we cannot--and I'm paraphrasing--stoop to the level of the one we are punishing. Some people would say, well, this person burned somebody up in a house, burn them in the electric chair. That has been rejected by civilized people; I emphasize, civilized people. It's easy to stand on this floor and fulminate and talk about being tough on crime, but there are senators on this floor who don't even want to be attacked verbally for the positions that they take. These phone calls are extremely important. To break the connection between a person and his or her family goes against all these hypocritical so-called conservative values that I'm always condemning. They say family means something. A person is never excused from the human race. I don't think Senator Groene is that much of a religious man but maybe he is. But for those people who are Catholics there is much discussion about human dignity and that the death penalty, even for the worst criminal, goes against the human dignity of the person being punished in such a manner. A human being never should be deprived of his or her dignity. The punishment for committing a crime is not to be cut off from your family, it is to be deprived of your freedom to move about. There are not to be these kind of other things that will give people either a biological, a sexual, or that desire for revenge, that's not what going to prison is about. There are people like the Koch brothers and even in Congress who are talking about advancing a bill for penal reform. Fewer people going to jail, shorter sentences. They realize that all this other...I don't use that kind of language but offal, o-f-f-a-l--that's what you drop in the toilet stool when you go--all of that has failed. And the Legislature should not follow that discredited path of saying punish, punish, punish. I'm telling you that I listen to you all on this floor. I watch what will make you all yelp. You couldn't stand it in prison. And then you're going to say take away the phone calls. Then Senator Hilkemann is going to let politicians say there are programs we want to put in place, so we want to jack up the price that these inmates have to pay to call a family member to get the money to underwrite a governmental program? And you're all going to do that in a Christian state like Nebraska where conservatives are supposed to rule? I'm working on a cartoon of a conservative. His head is on backwards, his feet are on backwards as he jogs as fast as he can into the past. They are hypocritical, they are stiff necked... [LB776]

SPEAKER SCHEER: One minute. [LB776]

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SENATOR CHAMBERS: ...they are prideful--not full of pride--prideful, hardhearted, unforgiving, yet they want to receive consideration. They want to talk about family values. And time has come for us as a Legislature to do differently from what some of the people who have the attitude of Senator Groene, we have to do something to separate ourselves from that. The next time I'm recognized I'm going to shock you all by letting you know that I listened to the prayer this morning. Thank you, Mr. President. [LB776]

SPEAKER SCHEER: Thank you, Senator Chambers. Senator McCollister, you're recognized. [LB776]

SENATOR McCOLLISTER: Mr. Speaker, I waive. I didn't realize I was going to get a chance to speak earlier, so. I am anxious to get to the next amendment which I think will explain some of the rate structure and we can talk about what reasonable rates are. So thank you, Mr. President. [LB776]

SPEAKER SCHEER: Thank you, Senator McCollister. Senator Halloran, you're recognized. Yes, Senator Halloran, you're recognized. [LB776]

SENATOR HALLORAN: Thank you, Mr. Speaker. If you look at the vote of the committee, I was a yes. But it was a qualified yes, okay? And Senator McCollister and I have talked about this at some length and I will call on him to yield for a question or two. But it was a qualified yes because I do agree the rates are disproportionately high in many cases. But those funds that are drawn from this do go back to reprogramming programs for the prisoners. In Douglas County they would realize a loss of approximately \$616,000 in revenue if it was taken away completely for these phone calls. That would be \$616,000 out of a total of \$770,000 that they use for reprogramming programs for these prisoners to help them reenter...once they are released, to reenter society and be able to cope better as a citizen. And my question in the committee was--and in private conversations with Senator McCollister was--well, so if this money goes away, will these reprogramming efforts go away? The only programming efforts that are required for the county to provide are GED programs. But there's a plethora of other programs that they have that seem and look, at least on the surface, to be of benefit to these prisoners. And my question is, my concern is...and if Senator McCollister will yield to a question, please. [LB776]

SPEAKER SCHEER: Senator McCollister, would you please yield? [LB776]

SENATOR McCOLLISTER: Yes, I will. [LB776]

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SENATOR HALLORAN: Thank you, Senator McCollister. We've chatted about this some and I think it's been good conversation, but again I express my concern that Douglas County may fund these and that's a choice they'll have to make. And they would have to come up with the difference in funds to do that and that's a taxpayer issue and all of that and I understand and appreciate that. And it's true for Lancaster and it's true at some level for all other counties across the state. My question is, will these programs...is there any assurance that these reprogramming efforts will still exist if a county chooses not to opt to pay for them, aside from GED? [LB776]

SENATOR McCOLLISTER: Thank you, Senator Halloran, I'm grateful for the question. And we did talk about this after the committee hearing and we also talked about it in ensuing weeks that occurred after. My AM2018 I think will deal with some of those concerns. As I indicated earlier, Douglas County talked to me about that same \$617,000 they're able to generate from the phone call services. And I'm going to repeat some testimony I made earlier. County jails have expenses associated with housing people and LB776 would allow them to continue to charge for phone services. Last year, a state survey of all county jails by the ACLU revealed a 15-minute phone call might cost anywhere between \$2 and \$20 dollars. For example, let's assume four 15-minute phone calls per week, Saline County, the charges were \$318. [LB776]

SENATOR HALLORAN: Senator McCollister, if I may, I agree with you on the prices for these phone calls being extraordinary and they should be moderated in some fashion. My concern is, are these reprogramming programs going to be lost or is there a risk...a significant risk that these reprogramming efforts will be halted? [LB776]

SENATOR McCOLLISTER: I do not think they'll be halted and I salute the counties that consider these programming that helps the inmates and it keeps them out of jail longer. [LB776]

SPEAKER SCHEER: One minute. [LB776]

SENATOR McCOLLISTER: And so I think I can show with the amendment exactly what we're doing. [LB776]

SENATOR HALLORAN: Okay. We'll look at the amendment. Thank you. [LB776]

SENATOR McCOLLISTER: Thank you, sir. [LB776]

SPEAKER SCHEER: Thank you, Senator Halloran and Senator McCollister. Senator Chambers, you're recognized. [LB776]

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SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, since Senator McCollister has another amendment pending, I will speak this time and not take my third time on this one. Then I'll speak with reference to the amendment. You all have no idea how difficult it is for me to try to sound civil while I'm here listening to this tripe. I listened to how concerned you all are about counties, political parties, then you want to take the people who are already beaten down and step on them and it makes you feel good. Pick on somebody your own size, like me. Stand up to me. But let me tell you something, this morning I listened to that prayer. I often do so that I can...I'm a surrogate for God and I give God's answer to the prayers you all pray and the answer is, no. And God says, right on Ernie. You're my alter ego on earth. I listened to a person who did not say he was a rabbi but he said he was going to read from the Jewish scriptures. And he talked about, happy are those who obey the law, who hear the law and obey it, who walk in the way of the law and please God and do what God told them to do. That's not you all, not by a long shot. And Christians incorporate into what they claim to believe, the Jewish scriptures. The one they say they believe in is Jesus. And let me tell you all something that Jesus said--I'm his surrogate too--he said, Ernie, if you're good enough to speak for my daddy, you're good enough to speak for me. For one thing, you do not abuse little boys, you're not involved in multiple marriages, so I want you to speak for me. You're cleaner than those who befoul my word and what I stood for. So tell them this: Remember those who are imprisoned as in prison with them. Then Jesus condemned his disciples saying, when I was in prison, you visited me not. And they said, Lord, when were you in prison? And the unspoken notion is, if you were there, naturally I'd come. Jesus looked at them and said, apostle Groene, inasmuch as you have not done it to the least of these, my brethren, you have not done it to me. My brethren. He didn't throw them away. He didn't say, cut them off from their families. He said they are his brethren. If they are his brethren, that means they got the same mama and papa. We're all supposed to be a part of a family. Of one blood, God made all manner of people on this earth, you all say. But you don't believe that. If Douglas County has over \$600,000 that they have extorted from these prisoners to conduct a program, it shows how excessively they are charging these men and women, and you all accept that. Let these counties in...pay more property taxes for the programs that are being provided to them. To these farmers, to these other agricultural people, and all these whiners and complainers about property taxes being too high, then you're going to take people who cannot help themselves and grind them down, grind them down, then you feel triumphant. You're doing God's work, but you pick on people who cannot fight back and those who will fight back are left alone. [LB776]

SPEAKER SCHEER: One minute. [LB776]

SENATOR CHAMBERS: And that is the definition in my mind of cowardice. And I'm going to bring this up every time you rural people talk about how you want something done about property taxes. Pick on somebody your own size. Cut out some of these giveaways to these big companies and fund these programs for inmates. But you're not going to do that. So at least I can

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make you listen to me and that's what I intend to do. I support this bill and Senator McCollister is far more willing to negotiate than I would be. See, I would lose the bill and then I'd punish you the rest of the session. Thank you, Mr. President. [LB776]

SPEAKER SCHEER: Thank you, Senator Chambers. Senator Schumacher, you're recognized. [LB776]

SENATOR SCHUMACHER: Thank you, Mr. Speaker, members of the body. The bill kind of refers to the people that are in jail as the people awaiting trial and the people serving sentences. Well, there's also another group that is in jail and that group that's in jail is the mentally ill. We have not addressed that issue. We had great fun closing the regional centers because that saved us money. We were supposed to replace it with some other system, community mental health, etcetera, but that would cost money and we haven't gotten around to doing that. We were very focused on making sure that over the last ten years we cut state revenues by \$750 million a year, and that still hasn't satisfied folks. But over the weekend, I got a call from our local county attorney's office and was told that they needed help trying to get someone into the Lincoln Regional Center. I think I got the story mostly right here, the party had been in trouble, kind of "violentish," minor "violentish" trouble in another county and had gone through some tests coming up on trial and found mentally incompetent. And they couldn't get him into any help and the judge and the...I don't know if the judge ordered it or if the county attorney just dropped the charges, but the person was cut loose. Shows up in Platte County. Okay. Again, kind of violent, mentally ill "typish" behavior, not the kind of person you want roaming the streets and they did something they were arrested for and put into the court system. The judge says let's test them, see if they're competent to stand trial. Test comes back, nope, not competent to stand trial, they need to go to the Lincoln Regional Center. They need to get enough mental health treatment in order to be competent to stand trial. And the judge's patience is a little thin because this person who is mentally ill is being kept in the county jail. Contact the Lincoln Regional Center, no room in the inn. There's a waiting line. Can't get around to it, not enough beds, not enough funding. And so I thought I was going to be a big shot and got on the phone and I was going to make things happen. Okay? Well, you learn way too late in your career here that that's not quite possible. And you can make noise but you cannot necessarily move a bureaucratic system nor can you make people in a bureaucratic system do something that they have not been financed to do and do not have the resources to do. So the county attorney's office haggled back and forth with the regional center for a better part of a day and the end result was this person is either going to sit in jail for one to three months waiting in line for a slot in the regional center or the judge is going to cut him loose. And what if in cutting him loose they show up on a school campus? What if they get beyond the point, what if they were denied a phone call or whatever remaining contact they have with their outside world and that pushed them over the edge? And I thought it was ironic that the regional center basically said they couldn't do anything to juggle

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around because it was very important that they maintained the integrity of the line. What type of state government do we have where we so underfund... [LB776]

SPEAKER SCHEER: One minute. [LB776]

SENATOR SCHUMACHER: ...mental health, so underfund our system in the interest of trying to pretend that we can do some magical tax relief, that what is important to us is not the quality of the service but the integrity of the line. And if you've got to sit in jail to protect the integrity of the line, so be it. And that's what we're dealing with all across the system as we constricted our ability to respond to needs that we know we have. It's a matter of priorities for us and we'll have a whole lot more discussion on priorities, I think, probably in the last 30 days that I'm here. Thank you. [LB776]

SPEAKER SCHEER: Thank you, Senator Schumacher. Senator Groene, you're recognized. [LB776]

SENATOR GROENE: Thank you, Mr. President. I'd like my colleagues to take a step back on this bill. This isn't about unreasonable rates, there's deeper meaning to this bill. This is what the original statute now says: The Jail Standards Board shall...shall and as it may deem necessary prescribe in writing rules for the regulation and government of jails upon the following subjects: (8) the intercourse between prisoners and their counsel and other persons. Phones aren't mentioned in the original legislation....original statute, folks. This is a whole new right for prisoners. It's not about 21 cents. This now says you must have phones, intercourse, Bible. Visit your friends, the people in prison. You can go visit, mom can go visit the prisoner any time they want. There's nothing in the original that we have to have a phone in our jails. Did you know that? This is a whole new right that prisoners have. Meaningful. There's nothing in here that some ACLU lawyer could say, my client wanted to call at 3:00 in the morning because his girlfriend was lonely. What's meaningful? What's the limits they can put on the use of those phones? Can you get on the phone at 8:00 in the morning and talk all day? Meaningful. Well, my mom needs to talk to me. This is open-ended, folks. ACLU is smiling out there in the lobby. Profit, those phone service now are put in by private companies, it's called a profit motive. They supply the phones, they put the phones in, there's no fees to the...when you buy a phone, when I put a phone in, I get a monthly bill. If those for-profit phone companies lose the opportunity to make a profit they're out of there. And guess what, we just instituted a new law that says that county has to put a phone service in that jail and now here comes the monthly bills from Alltel. Well, not from Alltel, Verizon in my area, AT&T. What can you charge them? Reasonable? Let's look at reasonable. Reasonable operating costs for establishing and administrating such telephone service system or videoconferencing system. It pretty much said we're talking about contracting with somebody for prepay or collect. But these businesses don't want to do it

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anymore because they can't make a profit. You better read between the lines on this bill, folks. This isn't about unreasonable phone rates, this is a new right given to prisoners, a new complete right. That lawyer can visit that prisoner any time they want, that prisoner can ask for their lawyer any time they want, but now they get phones, guaranteed phones. You're looking at a property tax increase folks, because if I'm a for-profit phone company and I lose my profits, I'm out of there. My phones are gone. This is bad legislation. This is about creating a new right. The reasonable costs is secondary. So don't get distracted of what we're voting on here. Prisons we build for a reason. We build them for a reason. I happen to believe in hitting rock bottom. I want those prisoners to be in there at least a part of time where they hit rock bottom and know what they lost because of their actions. And then after a while we put them on probation and say, here's a second chance. If they got better living conditions in their jail than they do out in the world, where are they going to live their lives? [LB776]

SPEAKER SCHEER: One minute. [LB776]

SENATOR GROENE: Do we want to cross that...we're getting closer and closer to crossing that boundary. This is a terrible bill. It creates new rights, creates lawsuits, creates another reason for judges to overturn convictions, more lawyer fees for the county and the state to pay. Just leave the system alone, it works. Thank you. [LB776]

SPEAKER SCHEER: Thank you, Senator Groene. Senator Brasch, you're recognized. [LB776]

SENATOR BRASCH: Thank you, Mr. Speaker, and good morning, colleagues. I did have a conversation off the floor with Senator Groene on this, and him and I are not on the same page. I do support the bill, I'm interested in amendments. I was on Transportation and Telecommunications Committee for many years of my eight years here and I've heard this pleaded before by families and individuals. If you look at the one-liner here, it does say to provide requirements for inmate access to telephone or videoconferencing systems in county and city jails. There are phones and communication systems in place. However, what I stand against is the--and Senator Halloran I believe called it extraordinary pricing, I call it exorbitant pricing--that I believe that costs should be recaptured and it should not be a money profit-making way to pay for institutions of individuals that have broken the law. They have been through the judiciary system. They are there to pay the penalty, but also so recidivism does not occur, that whatever mistakes were made in the past do not occur in the future. We should be into helping build people, not build jails or profits for companies. I don't believe we should put a Starbucks inside of our prison so the jails could make a profit--there's a lot of profit in coffee--but not on the backs and the shoulders of families who are already suffering and paying for a penalty. I do believe that families are our best teachers and today we are hosting the homeschool association right across the hall. Families are our first teachers, and if these inmates want to and need to

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reach out to their children, their wives, in hopes of building a citizen that can contribute and not return to jail, that should be everyone's goals here and not to build more jails and more programs to house more individuals. We need to show them the right path and the right road and not make it financially burdensome. Yes, there are rules in place already, a phone call cannot be made 24/7, that naturally I believe would be a part of whatever takes place, but it should not be exorbitant pricing. Lancaster County and Douglas County showed up in opposition here and, again, you don't rest on the shoulders of someone who's already broken their back, broken their heart, and broken their life. This is something that I believe should have been fixed many years ago and I do thank Senator McCollister for introducing this. Wrong is wrong. And Senator Chambers has been lashing out at farmers and property taxes and things like that, but we're victims in the same way. Rural people are a few people who can't fix their situation. They're stuck. They're stuck, they can't pick up their farm and move. Some do it, some go to another state... [LB776]

SPEAKER SCHEER: One minute. [LB776]

SENATOR BRASCH: ...but they're looking for a better situation to take a huge burden off their backs. But this bill is about exorbitant pricing and the fact that jails and correctional systems have made it profitable for someone and they share on the goods. I think wrong is wrong. And what we need to do is have people reconnect to those roots that can get them on the path to a good life, a life outside of an institution. Thank you, Mr. Speaker, and thank you, colleagues. [LB776]

SPEAKER SCHEER: Thank you, Senator Brasch. Senator Chambers, you're recognized and this is your third time at the mike. [LB776]

SENATOR CHAMBERS: Thank you, Mr. President. I said I wouldn't speak again, but I'd like to quote from the "Bible." There was an occasion where this individual said, if I did not speak the stones would speak. There are things that need to be said and I doubt that I could say it more effectively than Senator Brasch just did. That was the voice of reason, the voice of compassion, the one who could pour oil on troubled waters and that stormy surface can compose itself into a smooth surface like reflecting glass, and I appreciate what she said. And maybe, just maybe, Senator Brasch, if those people who come up there every morning talked about what you talked about, you might see me in here sitting--I wouldn't stand up--sitting and listening because she is pointing out that there are problems and that there is something we can do about it and we ought to do it. God didn't create the problem, God doesn't have to solve it. Human beings created it, human beings must solve it. I'm glad to see my colleague, Senator Groene, is back. I read the constitution. I'm trained in the law, he is not, but I think he believes the constitution. There's something in the Fifth Amendment that says a person cannot be put twice in jeopardy of life or

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limb. Now, some people who don't study don't realize that that word "limb" referred to the limbs of your body, because when this country was founded mutilation was allowed. The punishment for the first federal crime was to be lashed, to be lashed. That's what was going on. Then some people said, wait a minute, there has to be a change here. So the Eighth Amendment was added to the constitution and it said there will not be excessive fines or bail nor cruel and unusual punishments. That was because legislatures would annex the most horrendous punishments to crime. And this is what was argued when they were arguing for the Eighth Amendment. And some of those Christians said, it may be necessary to clip somebody's nose, to clip their ears, to whip them. And the others said, no, that's the old way, that's not going to continue happening. So the Eighth Amendment was adopted. No cruel and unusual punishments and that was to put the courts in a position to not follow the whims--as legislators will do when they're running for office--and put this crazy stuff in the bill and say...into the law, you are not even entitled to a telephone because it's not mentioned in a statute. You can be fed bread and water. And courts said, no, that's not so. That's what you want, but the courts are here to civilize that uncivilized action by uncivilized legislators. And in one of the Supreme Court cases where the argument was being made as to why there should be no capital punishment, the discussion again went back to the Eighth Amendment. And society should be marked by respecting human dignity. And the conduct of a society should be such that it would mark... [LB776]

SPEAKER SCHEER: One minute. [LB776]

SENATOR CHAMBERS: ...the advancing standards of a civilized society, not this cruel kind of stuff that you're hearing here this morning. And Senator Brasch, I was saying what I said about rurals and those who are arguing for property tax relief, to show them what it means to be under what they consider an unfair burden and maybe by making it in their home, in their life, they could have just a modicum of sympathy, empathy, understanding for others who have lost far more than any of them have lost. One of the harshest punishments to bear is to be deprived of your freedom. That's why only that loss of freedom is what the courts will allow. You cannot tack on other punishments. And that's my third time, but when that amendment comes up, I'm going to go back to the Fifth Amendment and then compare it to the parallel situation in Nebraska's Constitution, which I read and obviously my colleagues don't. Thank you, Mr. President. [LB776]

SPEAKER SCHEER: Thank you, Senator Chambers. Senator McCollister, you're recognized. [LB776]

SENATOR MCCOLLISTER: Mr. Speaker, is this my third time? [LB776]

SPEAKER SCHEER: Your first time on the amendment. [LB776]

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SENATOR McCOLLISTER: Fair enough. Would Senator Chambers yield to a question? [LB776]

SPEAKER SCHEER: Senator Chambers, would you please yield? [LB776]

SENATOR CHAMBERS: Yes, I will. [LB776]

SPEAKER McCOLLISTER: Senator Chambers, we're talking about the constitution today. Does the Sixth Amendment to the constitution and the Bill of Rights deal with the guarantee of counsel? [LB776]

SENATOR CHAMBERS: Yes. [LB776]

SENATOR McCOLLISTER: Does it necessarily say how that right is to be obtained? [LB776]

SENATOR CHAMBERS: No. [LB776]

SENATOR McCOLLISTER: Thank you, Senator Chambers. Would Senator Groene yield to a question? [LB776]

SPEAKER SCHEER: Senator Groene, would you please yield? [LB776]

SENATOR GROENE: Yes. [LB776]

SENATOR McCOLLISTER: Thank you, Senator Groene. You represent Lincoln County, is that the case? [LB776]

SENATOR GROENE: Yes, I do. [LB776]

SENATOR McCOLLISTER: The county seat in Lincoln County is North Platte, correct? [LB776]

SENATOR GROENE: Yes. [LB776]

SENATOR McCOLLISTER: When you measure that county going east-west or north and south, how large is Lincoln County? [LB776]

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SENATOR GROENE: I don't know. I just drive it a lot. [LB776]

SENATOR McCOLLISTER: Is it at least 30 miles in each direction? [LB776]

SENATOR GROENE: It's the second or third largest county landmass. Cherry County is number one. I think we're number two landmass. [LB776]

SENATOR McCOLLISTER: Is the jail facility in North Platte? [LB776]

SENATOR GROENE: Yes. [LB776]

SENATOR McCOLLISTER: Okay. With the right of counsel that those prisoners have and the attorney lives out of town, does that attorney have a right to receive travel expense from Lincoln County to represent their client? [LB776]

SENATOR GROENE: I wouldn't know, but all the attorneys live in North Platte. [LB776]

SENATOR McCOLLISTER: I see. Well, not all I would guess, but they receive \$95 an hour, even when they're traveling. So I would assert that it's in the best interest of Lincoln County to have telephones that people can use. Yes, there's no mention of telephones in the Sixth Amendment, but it's a way of communication that not only attorneys but families of those incarcerated have, so that's...it's very convenient. I think I've shown that it's in the best interest of the taxpayers in Nebraska for those inmates to maintain those close family ties and I think we ultimately save money when that's the case. I'm anxious to get to my next amendment. I think we can deal with the rate issue at that point, so I'd encourage everyone to stand down until we get to the amendment and then we can talk further about what reasonable rates are. Thank you, Mr. President. [LB776]

SPEAKER SCHEER: Thank you, Senator McCollister and Senator Groene. Senator Smith, you're recognized. [LB776]

SENATOR SMITH: Thank you, Mr. President. And colleagues, I just wanted to rise in support of this committee amendment and to the underlying bill, LB776. This is not an easy discussion, especially when we make it about mandates, government mandates and costs. Frankly, we're not...opposition to this type of legislation will never create prosperity for any of us. This is a small action to help ease the burdens of families of the incarcerated that may not be able to visit, as Senator Groene mentioned in his comments. There are oftentimes reasons that families are just simply not able to visit family members that are incarcerated. Let's not make this about

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something more than it is. I do support the underlying bill. We should not lose sight of helping families of the incarcerated, nor should we lose sight of helping those that are incarcerated to get on the right path in life. And sometimes it's too late and they remain incarcerated for the duration of their life, but that doesn't mean that we do not behave in a humane way. This is a small thing that we as a civilized society should be doing. This is the right thing to do and I appreciate Senator McCollister for bringing this legislation and I encourage my colleagues to support this. Thank you, Mr. President. [LB776]

SPEAKER SCHEER: Thank you, Senator Smith. Senator Erdman, you're recognized. [LB776]

SENATOR ERDMAN: Thank you, Mr. Speaker. Good morning. I've been listening to the debate. I listened to Senator McCollister talk about those public defenders getting \$95 an hour whether they travel or not. I was wondering if Senator McCollister would yield to a question. [LB776]

SPEAKER SCHEER: Senator McCollister, would you please yield? [LB776]

SENATOR McCOLLISTER: I certainly will. [LB776]

SENATOR ERDMAN: Did I understand that correctly, Senator McCollister, when you said they get \$95 an hour whether they're driving or not, did you say? [LB776]

SENATOR McCOLLISTER: That's what I understand the case is. I got that information from the counsel of the Judiciary Committee. [LB776]

SENATOR ERDMAN: Okay. In western Nebraska, several counties have...they do not have public defenders that are elected and they have to contract for those and they have taken the initiative to put those services out for bids. And several law firms in the areas have taken those on in a bidding process. My county was the first one that tried that or did it. We saved about \$150,000 a year because we got people willing to bid at a lower hourly rate and they get a flat fee no matter how many calls they make, and so that's not the case all the way across the state. When this bill came up, I contacted several of my county sheriffs and those county sheriffs have jails, and in their opinion this bill will have no affect on them at all. Our county...in Morrill County, they contract with a firm to do this and he said this bill would not have any effect on them. They don't get revenue from this and he said there wouldn't be any difference in services whether this bill passes or not. I think what's happening here, as it happens several times, is things are different in eastern Nebraska than they are in western Nebraska. But we pass statutes here that affect everybody across the state the same when, in fact, they don't...they're not

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applicable for everyone. This bill really has no significance for us where we live. I don't understand exactly how we think that one size fits all across the state, but that's what we do here. I'm not in favor of the bill. I want you to know that I feel that a lot of those people that are in the jails didn't go there by an invitation. They broke a law and they have to set in there to, as Senator Chambers said, take away freedom to pay for breaking the law. So we're making decisions here today, and we normally do that, that affect the whole part of the state and sometimes it doesn't fit us. And so I'm not in favor of the amendment nor the bill. Thank you for your time. [LB776]

SPEAKER SCHEER: Thank you, Senator Erdman. (Visitors introduced.) Going back to the discussion, waiting in the queue: Senator Kolowski, Groene, and Halloran. Senator Kolowski, you're welcome to speak. Senator Kolowski waives. Senator Groene, you're recognized. [LB776]

SENATOR GROENE: Thank you, Mr. President. Go back, before the for-profit phone services there was pay phones in the corner. We could go back to that. Beware of what you ask for. You eliminate the for-profit phone services that give these prisoners access to phones, if I was the county commissioner there would be a pay phone in each cell block. It says in the bill, as long as you give collect service, that's all you have to do. Pick up the pay phone and wait in line, prisoners, for your turn and make a phone call to your lawyer. When your legs get tired, you can go back to your cell. So you compassionate individuals who think this is good, you better rethink what you're asking for. It says phone service. If I was the county commissioner and hardworking people that kept their nose clean and worked in the jail would I raise their property taxes to put in a high-class phone service? I wouldn't. After that for-profit came in and removed their phones and their equipment, I'd put a pay phone in. Probably get them pretty cheap. I think there's a pile of them somewhere at every phone company. Or it wouldn't even have to be a pay phone, just a phone that receives no incoming calls unless it's a collect call. Excuse me, it would receive incoming and the line would be busy all the time because the prisoners would be waiting in line to call their lawyer. And I'd be reasonable, I'd do it eight hours a day that you could have access to that phone. That's what I would do as a county commissioner. Why would I raise taxes on my taxpayers to put a phone system in because the for-profit folks pulled out? The part in here that says you have to give them access to their attorney, that's already being done. I think there's court cases out there, you can't deny somebody contact with their attorney. All the urban senators, you want to raise the taxes on your constituents you go right ahead, because Douglas and Lancaster County are against this. The good prisoner who pays for his phone service or doesn't need it is going to lose his pizza night in North Platte. He's going to lose some of his classes that he can take, because that's what North Platte uses their profit...their commission for, Lincoln County does. It's okay to have a pay phone in the corner. That's where we're going to end up again if I was county commissioner. And I'd win in Lincoln County on that issue, because people are tired of their property taxes. This bill will raise property taxes. It creates new rights. Since the beginning of time in prisons, even when Paul was in prison in the Bible, visitors were allowed to come see Paul. They can still do that. If mom really wants to see the son, they can take a little

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time off work and go visit. And you think now it's expensive to call your relative in jail, guess what? When the sheriff has to hire deputies to monitor things, it's going to be 8:00 to 5:00 and that's it. There ain't going to be no evening phone calls. [LB776]

SPEAKER SCHEER: One minute. [LB776]

SENATOR GROENE: On one hand, you're for free enterprise and the advantage it gives to people and the access the things it gives it to and then the other hand you want to limit it, the for-profit phone companies, which are providing a service. It's expensive to some. To the drug dealer who's got a stash of money somewhere, it's pretty reasonable. He can still get on the phone and contact his operation to make sure things flow well till he gets back on the streets. The pimp can do the same. They can speak the right words to make sure that the monitors don't catch what they're saying. Oh, am I wrong on that? I don't think so, folks. I know folks who work in the prison system, I know what happens. But we are going create a new right and we're going to hide behind a reasonable rate and claim it's a reasonable rate. [LB776]

SPEAKER SCHEER: Time, Senator. Time, Senator. [LB776]

SENATOR GROENE: Sorry. [LB776]

SPEAKER SCHEER: Thank you, Senator Groene. (Visitors introduced.) Going back to debate, Senator Halloran, you're recognized. [LB776]

SENATOR HALLORAN: Thank you, Mr. Speaker. Let's bring this to the local level. And before I spoke about Douglas County--and some people might have thought that might be odd that I'm from Adams County and I'm defending Douglas County--but we're all state senators, so we should be defending any county that comes to our attention. Let's bring it to the local level here a little bit. I got a call just a little bit ago from a sheriff, not my sheriff, but from a sheriff, a county sheriff, and he said, indeed, these folks that are arrested have the right to counsel and have the right to access their counsel and they should be given that access to their counsel. But he said, it's not always all about that with their phone calls. He said, probably 75 percent of the people he arrests are for any number of charges, but many of them are related to intoxication. And these folks, when they wake up the next morning and they kind of get past their night before, they want access to their phone so they can call everybody that they possibly know that might come up with their bail money. And they'll call and they'll call and they'll call and some are successful in a few calls, but many of them have to make many calls to find someone that will come forth with bail money. And many times if they don't find a friend that's going to do that, they may have responses like, well, you did it, you maybe need to dry out in jail. I don't know what their response might be, but when they're done if they're mad, more than several times he's had

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instances where the inmate will throw the phone against the wall or on the floor and break the phone. And he said, so how do we pay for that? Well, it comes out of the fees that are charged for these calls. And so it's not all about phone calls to legal counsel, and I think that's important to note. That's been the nature of the conversation here and I don't want to inhibit their opportunity to call counsel. But speaking along the lines of what attorneys get paid on an hourly basis, I'm not sure there couldn't be something worked out with the attorneys if they have \$95 per hour or more, even while they're driving, that they could personally pony up a debit card to the person incarcerated to call them at will and it will be on the attorney's expense. That may not be practical and I'm sure the attorneys here would rebel against that whole concept, diminishing their \$95 per hour. But again, back to my earlier question and concern about reprogramming, I know in the Judiciary Committee we discussed at great length and a number of bills come to us in regard to the importance of programming so that these folks can come back out into society and not suffer with recidivism and end up back in jail. This is from Douglas County again, the funds realized from these calls were not directed to the Douglas County general fund, so they don't go into the general fund to make the county any money. The Douglas County general fund receives \$616,000 from these phone calls, but they spend \$770,000. So they add from their general fund another \$110,000, because they see the benefit of reprogramming. And on that note, given the short-term nature of incarceration, which is characteristic of jail,... [LB776]

SPEAKER SCHEER: One minute. [LB776]

SENATOR HALLORAN: ...our ability to address reentry needs of the offender through the use of evidence-based reentry programs serves an irrefutable role in safeguarding the community to which the offender returns. Diminishing ability to provide these reentry programs will have the likely effect of increasing recidivism and further exacerbate an increased jail population and attendant collateral issues. So again, my larger concern is, is whether or not these programs are going to exist aside from the GED, which is required. Thank you. [LB776]

SPEAKER SCHEER: Thank you, Senator Halloran. (Visitors introduced.) Senator Ebke, you're recognized. [LB776]

SENATOR EBKE: Thank you, Mr. Speaker. Am I the last one in the queue? [LB776]

SPEAKER SCHEER: No, you are not, ma'am. [LB776]

SENATOR EBKE: Okay. Well, then let me go ahead and address a couple of issues here. First of all, I really appreciate Senator Groene's effort to avoid mandates on local counties and local entities. However, I think there is a superior mandate and that mandate is the constitution and the rights of the accused. We have a mandate to provide this legal counsel. Our job is to protect

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against a violation of constitutional rights, not to make sure that the local officials can make a little money off of providing them. There was a question a little while ago--and I don't remember who it was--about the attorneys' fees and the \$95. For those who don't know, certainly public defenders are one class and they get paid regardless. In some places if there is a conflict--say there is two clients who were part of the same offense and they both need public defenders--then there may be a need for them to conflict out, in which case they can...the county can contract with other people or they can hire a public...an appointed counsel. The appointed counsels are the ones where these rates come up, and how much they're charged depends at some level on where you live and what the penalty is. As a general rule, when you live outside of sort of the Lincoln-Omaha metro area, outside of a particular circle, it's up to the counties and the district courts to assess or to provide the payment and those rates are typically around \$95 an hour, which includes the travel time. There are some questions with respect to the ability of an attorney to provide a debit card or something else. My legal counsel pointed out that there's a possibility that an attorney paying for a client's phone call would violate professional ethics. You can float expenses for an indigent client, but it's not exactly clear what that means. From the code of professional ethics: A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation except that, (1) a lawyer may advance court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter. In this instance, if it's a criminal matter, because somebody is in jail, there's probably not going to be any sort of monetary fee, and a lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client, but what exactly is court costs, and is this? So I would suggest that we need to think carefully about how we address these constitutional rights, whether we're violating the constitutional rights. And I would again encourage the advancement of AM1687 to LB776. Thank you, Mr. President. [LB776]

SPEAKER SCHEER: Thank you, Senator Ebke. Senator Lowe, you're recognized. Senator Lowe, you're recognized. [LB776]

SENATOR LOWE: Thank you, Mr. Speaker. I've been in contact also with our sheriff's department and our county attorney and they don't like this law also. There's nothing stopping our counties and our jail systems from putting in a phone system if they would like to do that. I don't believe we need to make it a mandated...to do that to them. I believe they can charge what they want to charge. Right now in Buffalo County they use the money generated from the phones to provide special programming for the betterment of those there. So those that make the phone calls help themselves out by doing so. I think that they weren't invited, as Senator Erdman said, to go to jail. If they would like to use the phone, they should stay out. They could do that before they go in or after they get out of jail. They could use the phone all they want. They're not denied from contacting their attorneys. They can do that already. I have talked to a couple of attorneys in Kearney also and they said they would be inundated with phone calls from those that are sitting in jail asking the weather, asking any questions that they want to ask because they would

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then be able to do so at a cheaper rate. They're not in favor of it. So I don't believe that we need to do this. I respect Senator McCollister for bringing a bill and for caring about those that are incarcerated. We all want the betterment for everybody. I believe that we don't need to make a change to the phone systems in the jails because it does make a betterment for those that are sitting in jail, at least in Buffalo County. I'm not advertising that people need to come to Buffalo County to be incarcerated, but I do know that they treat them pretty well there. Thank you, Mr. Speaker. [LB776]

SPEAKER SCHEER: Thank you, Senator Lowe. (Visitors introduced.) Seeing no others wishing to speak, Senator Ebke, you're welcome to close on AM1687. [LB776]

SENATOR EBKE: Thank you, Mr. President. I'm just going to take a moment here. I'm very concerned about the continued apparent lack of appreciation for the fact that people are innocent until proven guilty. And just because somebody is in jail does not mean that they have been convicted of anything. They are awaiting trial. They are awaiting some other legal process, but it doesn't mean that they're guilty and we ought to be protecting their constitutional rights. And with that, I urge the adoption of AM1687. Thank you, Mr. President. [LB776]

SPEAKER SCHEER: Thank you, Senator Ebke. The question is the adoption AM1687 to LB776. All those in favor please vote aye; all those...yes, Senator Ebke, for what purpose? [LB776]

SENATOR EBKE: Could I have a call of the house, please? [LB776]

SPEAKER SCHEER: Certainly. There has been a request to place the house under call. The question before us, shall the house go under call? All those in favor please vote aye; all those opposed vote nay. Please record. [LB776]

CLERK: 17 ayes, 3 nays, Mr. President, to place the house under call. [LB776]

SPEAKER SCHEER: 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 Thibodeau, Wishart, Kolterman, Bolz, Lindstrom, Larson, Riepe, Harr, and Linehan, would you please return to the floor. The house is under call. Senators Linehan, Riepe and Larson, would you please return to the floor. The house is under call. Senator Bolz, would you please return to the floor. The house is under call. Senator Ebke, we're short Senator Bolz. Would you allow us to go forward? Machine vote? Okay, the question before us is adoption of AM1687 to LB776. All

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those in favor please vote aye; all those opposed vote nay. All those voted that wish to? Please record. [LB776]

CLERK: 33 ayes, 7 nays on adoption of committee amendments. [LB776]

SPEAKER SCHEER: AM1687 is adopted to LB776. Mr. Clerk. Raise the call. [LB776]

CLERK: Senator McCollister would move to amend with AM2018. (Legislative Journal page 700.) [LB776]

SPEAKER SCHEER: Senator McCollister, you're welcome to open on AM2018. [LB776]

SENATOR MCCOLLISTER: Thank you, Mr. Speaker. And I am grateful that we can finally bring this amendment, because I think that it will add clarity what this bill is trying to do. Under AM2018, the Jail Standards Board for the sake comparison may consider rates set by the Federal Communications Commission, or FCC, when determining reasonable rates, cost for both county and city jails. Currently, under 47 CFR Part 64, which relates to inmate calling service, no provider shall charge a rate for collect calls in excess of 25 cents per minute, a rate for pre-calling in excess of 21 cents per minute. By using these rates as guidelines, and I repeat, guidelines, county and city phone service contracts should be able to easily cover direct costs. However, these facilities and political subdivision in which they may be located will not be able to generate excessive funds and they can support their unrelated general fund obligations. I think those counties and city jails that generate excess funds with these rather generous rates set by the FCC, which we will use as a guide, that we will still retain those extra services that counties have been providing. A couple other comments relating to some of the discussion that's occurred. I'd like to reiterate the comment that Senator Ebke made. Half, colleagues, half of those people in county, city jails are pretrial detainees. They have not been determined to be guilty. Not guilty. So we need to remember that. And, as Senator Schumacher indicated, they can also be the mentally ill. I even like the comments of both Senator Erdman and Halloran when they indicated that these folks may be in there for a rough night out on the town and for them to get ahold of their bail bondsman, that's a good thing. Jails don't have to spend money maintaining those facilities for those people ready to get out. Another comment...free enterprise. I worked for a company for 35 years that was a free enterprise company. I competed for state contracts. So what this bill does is encourages the exercise of free enterprise. Those five or six companies that provide jail services, by golly, get in the mix and compete and give those counties a good rate and so those inmates and their families won't have to provide the extra dollars to stay in touch with those families. That's important. So free enterprise is part of my bill and I want you to remember that when you vote. With that, I would encourage your support of AM2018. Counties

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are going to be able to function just as they have in the past. And so let's please vote green on this amendment. [LB776]

SPEAKER SCHEER: Thank you, Senator McCollister. Senator Chambers, you're recognized. [LB776]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm speaking for the people...to the people who are watching us so they can understand that there are some people who try to serve and fulfill a civilizing influence on the floor of this Legislature. There was a case involving the death penalty--and I'm paraphrasing it--where one of the judges said in his opinion that a civilized society should be governed by evolving standards of decency that mark the progress of a maturing society--evolving standards of decency. As we become more civilized and more knowledgeable, we ought to do better. But I guess water cannot rise above its level. And the hard life that I lived did not make me hardhearted like some of the people here. What it did was bring me a type of understanding of what can be done to a person when you live under circumstances that would take everything out of you if you let them. I survived it and I don't want to see anybody go through the kind of things that I went through. And even when people have committed a violation of the law, I see so many people who are politicians, who are teachers and others who are not put in jail, not put in prison, given probation. We see stories about it on television all the time. I speak for the poor, for the voiceless, for the friendless, and that mother who might have a child in jail. These are not just adults, old people in jail. She might be infirm. Maybe being in contact with her child means something to her, but it doesn't mean anything to Senator Groene and some of the others around here. When somebody was trying to appeal to Scrooge--and some people ought to read Charles Dickens' works--Scrooge said, are they my poor? Are they my hungry? Have they no workhouses? That's Senator Groene. And I call him out. I listen to his words and now I understand why I get calls from you all's districts and why they don't call you. I wouldn't call you either. I was talking about the Fifth Amendment to the U.S. Constitution, you all's constitution, which prohibits a person being placed twice in jeopardy of life and limb for the same offense. Let me read to you what's in the Nebraska Constitution, because you all won't read it. Maybe Senator Groene will. The Bible he reads, it hasn't done him any good. Maybe this civil bible will. Article I, Section 12 says: No person shall be compelled in any criminal case to give evidence against himself or be twice put in jeopardy for the same offense. Why didn't they say twice put in jeopardy of life and limb? Because there can be no corporal punishment in prisons. Senator Groene was upset, I'm sure, when the Supreme Court ruled that could not be done. You could not tie these people, four-point them, and beat them with leather straps or pour purgatives into them while they're tied up. And when they mess on themselves--that's part of the punishment--they shouldn't have come to jail. He doesn't care about that. I do. I will never let somebody, because of what they do, deprive me of my humanity. I will not sink to that level. When somebody is treated cruelly, if I'm the one treating that person cruelly, it dehumanizes that person, but it dehumanizes me even more. [LB776]

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SPEAKER SCHEER: One minute. [LB776]

SENATOR CHAMBERS: My humanity means something to me. It's all that I've got, my self-respect. There are certain things I cannot do because of the respect that I have for myself. There are certain treatments I will not accord anybody, whether others say they deserve it or not, because it would dehumanize me. It would abase my sense of personal dignity and I thank whatever gods there may be for my unconquerable soul. That was from a poem called Invictus by a guy with a first name like mine, Thomas Ernest Henley. Invictus, and that's what kept Timothy McVeigh buoyed while he went through everything and even through his execution, which I'm going to touch on. But I'll put my light on. Thank you, Mr. President. [LB776]

SPEAKER SCHEER: Thank you, Senator Chambers. (Visitors introduced.) Returning to the queue, those waiting to speak: Senator Groene, Halloran, Brewer, and others. Senator Groene, you're recognized. [LB776]

SENATOR GROENE: Thank you, Mr. President. I read the amendment. It's still vague. Excessive commissions and bonus payments including but not limited to awards paid. Who defines excessive? The ACLU lawyer? You pick the right judge? Who defines that? The federal commission defines rates, I believe, but it doesn't define commissions or maybe it does in the fine print, but that wasn't made clear in debate. There's other things in this bill which as a good Christian I...Christ said visit the people in prison. He didn't say go let them out or go buy them a steak. He didn't make a comment that they didn't belong there. Says here, supplying of each prisoner with a Bible. That needs to be corrected. Probably should say, or another individual religious book. But it says or other religious or spiritual material. You know what voodoo does? On a certain day...I don't know what their holiday is, but a chicken could be needed for the practice of their religion. If I was a lawyer and read that, I would say, you have to have a chicken given to that prisoner. There's all sorts of religions out there, folks. And what they deem material and necessary material varies. Crucifixes? Very important in the Christian religion. Or spiritual material. Could be a weapon. This is vague. It's not necessary. Everything that Senator McCollister said in the opening of his amendment and his bill is being done now. Prisoners are given phone service. They can call their lawyer. They can call their mother. An individual who is in there and hasn't gone to trial yet, well, if he's out on the street, he's paying for a cell phone, paying a lot. If he's got a land line, he's paying for it. So he's used to paying for his phone service. But now we put him in jail and he gets it free. Another incentive to be a criminal. You got free phone service at a reasonable rate if you want. But when does reasonable become free? And what judge is going to say that down the road? This is unnecessary legislation. It creates material for lawsuits. Everything is done now between public...this is a perfect example of a public-private cooperation, providing a service to the taxpayer and to the individual who happens to be in jail. The system that exists now. Perfect. This gives the heavy hammer to an outside influence called the courts, who by the way, judges aren't elected, they're kept. Is that what we do

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here? Create legislation and we turn more of our legislation and our powers away from local to the courts. That's what this language does. It is unnecessary. It is absolutely unnecessary. The rates are coming down with competition. There is competition. Senator McCollister said he creates competition. There is. There's four or five companies are out there competing against each other to get the services. [LB776]

SPEAKER SCHEER: One minute. [LB776]

SENATOR GROENE: And guess what? Mom and dad, brother and sister, relatives of those prisoners vote, too. So that's a restriction on the sheriff to get too carried away on how much commission the state...county makes. This is unnecessary. It adds to the tomes of bills, of laws. By the way, if a secular humanist and government is your religion, you're going to want all those books that are stacked in front of Senator Chambers, because that's your religious material because government is your religion. We're opening up Pandora's box with something that somebody felt they were doing a good deed. Read between the lines. Go all the way back to the beginning and examine what we're doing here. We're creating a new right, a new right for convicts. Thank you. [LB776]

SPEAKER SCHEER: Thank you, Senator Groene. Senator Halloran, you're recognized. [LB776]

SENATOR HALLORAN: Thank you, Mr. Speaker. Would Senator McCollister yield to a question? [LB776]

SPEAKER SCHEER: Senator McCollister, would you please yield? [LB776]

SENATOR MCCOLLISTER: Yes, I will. [LB776]

SENATOR HALLORAN: Thank you, Senator. Your amendment suggests or doesn't suggest, it says: in determining the amount of such reasonable operating cost, the Jail Standards Board may consider for comparative purposes the rates set by the Federal Communications Commission for inmate calling services pursuant to federal law. Do you have...I'm sure you've researched this, but do you have some idea what those rates would be? [LB776]

SENATOR MCCOLLISTER: Well, in the ACLU comparison, I think we're fairly confident that Douglas, Sarpy County, Lancaster County, they know the rates and they're going to be at or below those rates that I mentioned from the FCC. [LB776]

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SENATOR HALLORAN: And what were those rates again? [LB776]

SENATOR McCOLLISTER: Twenty-five cents per minute, collect call, and I think it was 21 cents per minute for a prepaid phone card. [LB776]

SENATOR HALLORAN: Okay, and what are they being charged now? [LB776]

SENATOR McCOLLISTER: It varies by county. In some counties, as I read off from my testimony, it's a far greater amount. In fact, it's egregious some of the charges that we heard from some counties. They were outliers and I think that that's part of the reason we need to get this bill passed, is so those inmates and their families don't get nicked for an unreasonable amount of money. [LB776]

SENATOR HALLORAN: Thank you. [LB776]

SENATOR McCOLLISTER: It's important to maintain those family relationships with those inmates and their families and I think society is better off if we can maintain those strong relationships. [LB776]

SENATOR HALLORAN: I will not argue with that. Do you know what the rates are in Douglas County jail? [LB776]

SENATOR McCOLLISTER: I think it was at or below the rates that I just mentioned, 21 cents and the 25 cents for a collect call. [LB776]

SENATOR HALLORAN: Okay. Maybe I misunderstood. I thought that was...what I was asking for, what were the Federal Communication Commission's rates? [LB776]

SENATOR McCOLLISTER: Oh, okay. That was...find my testimony here. I can't find them. But I'll be coming up on the mike and I'll give you those rates, Senator Halloran. [LB776]

SENATOR HALLORAN: Okay. Well, again, redundancy is not something unusual in this Chamber. So I will at the risk of being redundant a third time, one of my deep concerns is, is whether or not the counties will pursue the reprogramming efforts that they are financing now mostly, granted, through these...through the revenue generated through these phone calls. At some level it is...okay, it's a sense of responsibility. If I have to receive some programming if I'm in jail and I'm in jail of my own accord--I'm not guilty, that's fine, I understand that hasn't been

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proven yet--but I am in jail for some just cause to be arrested, isn't it partially my responsibility to pay for the programming that I might need to get back in society? [LB776]

SENATOR McCOLLISTER: Yes. There are certain mandatory programs that facilities are obligated to supply. [LB776]

SPEAKER SCHEER: One minute. [LB776]

SENATOR McCOLLISTER: Those are mandatory programs. But some of the programs you talked about are voluntary programs. For example, a GED instruction would be a mandatory program. But I think we need to recognize that most people in county and city jails are there a relatively short amount of time. So they really don't receive many services while they're incarcerated. [LB776]

SENATOR HALLORAN: Okay. Thank you, Senator. [LB776]

SPEAKER SCHEER: Thank you, Senator Halloran and Senator McCollister. Senator Brewer, you're recognized. [LB776]

SENATOR BREWER: Thank you, Mr. President. Well, for some reason this seems to be a topic that has generated the interest of my sheriffs. I say that because I have 13 of them. Half of them have contacted me on this issue. Now, I understand there are those in this body that would just as soon not have us come to the mike and speak on these difficult issues, but at the point you cease to represent the people that elected you, you just as well go home. So let me share just a little of the concern that the sheriffs expressed to me. It says, Senator, a lot of people are in jail for drug and alcohol abuse, as well as physical abuse. While in jail, the inmates use the phones to threaten the victims and what better way to keep a wife or a girlfriend from continuing to pursue assault charges or otherwise by using the phone systems to threaten them? By taking away the cost for this, they will hang on the phones, will continue to have the problems that we currently are experiencing with them damaging the phones and thus costing the county additional expenses. Understand, there are probably plenty of people who are awaiting trial who may or may not be guilty, but the fact remains that what we're going to do is shift the cost to the counties that they already are overburdened with and we're going to do that for what reason? What is so broken right now that we have to change the way that we're doing business? What I'm rising to today is just to tell you that I do have mixed emotions. Being on the LR127 task force and touring all the prisons in the state, I got to see both sides of it. And it did affect me because I think that we have made progress in our prison systems. We got a ways to go. But the jails are such a different situation because we're asking county sheriffs to manage with limited resources and because they have those limited resources, they're only able to do so much. And then what we're going to do is

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take what they have in the way of limited resources and we're going to even trim it more and then we're going to expect them to do that and deal with the very problems that they sent me the emails on. So I just rise today and ask that you consider very carefully LB776 because it will affect our smaller counties. I understand Douglas and Sarpy are in a different realm as far as their capabilities. But in the small counties, they're struggling and this is only going to hurt them, not help them. Thank you, Mr. President. [LB776]

SPEAKER SCHEER: Thank you, Senator Brewer. Senator Wayne, you're recognized. [LB776]

SENATOR WAYNE: Shocked--so much energy I produce, I guess. Thank you, Mr. President. I rise in support, but I just am throwing out a little marker to everybody to educate this body on...I didn't make an announcement in the wake of the Florida shootings because I wanted to at least for the individuals and the families to have time to pay their respects before we made floor announcements. But it reminded me and the reason I just got to push my button is, today two students were arrested for terroristic threats of Millard South. Cass County, Plattsmouth closed down their schools today for thoughts or terroristic threats regarding what could happen at Plattsmouth. And I just want to educate the body on something on a bill that I have, but maybe will come out of committee or maybe not. But I need you guys to understand that a juvenile who is convicted of a serious crime, including sex trafficking, including robbery or armed robbery, when they are done with their juvenile probation, which is there for rehabilitation purposes, when that individual turns 19, they can go and possess an AK-47 or a AR-15 legally. Whether or not they completed their terms in their probation satisfactorily or not, legally in the state of Nebraska, a 17-year-old who shot a Douglas County sheriff, that case was transferred to juvenile, he is now almost 18 this month, at 19 he can possess a long-range rifle, AR-15, AK-47 and there is nothing legally anyone can do. I heard people talk about the issues of gun violence in our society. Well, now it's time for this body to do something about it. It's time for us to start doing something in this body bigger than just some of the piecemeals that we've already started prioritizing here and there when I look at that priority list. This is a big issue and it's a controversial issue. But if we don't do something about some of our most dangerous youth that somehow when they turn 19 that they can go to the store and buy an AK-47 or AR-15, although just a year ago they were convicted of an armed robbery, we have a problem. I will fight this tooth and nail because there are currently 20 to 25 individuals who are 19 to 25 in Omaha, Nebraska, who are causing 70 percent of the gun violence. And if the police pull them over and they put their AK-47 or AR-15 on the back of their back seat open, there's nothing the cops can do. They are not a convicted felon. They are not a prohibited person. And as long as it's when a cop can walk up and they can see it in open sight, it is an open carry state and they are allowed to possess that. And that sheriff and that cop has to say, have a good day, although we know that person was just convicted in juvenile court of a violent crime. Why I bring up sex trafficking? Because an 18-year-old last year was charged in Bellevue with recruiting 14- and 13- and 16-year-olds. Luckily, George Thompson, who is a friend of mine but is a judge, did not allow that

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to be transferred to juvenile court. But had it been transferred, that person who just turned 19 would be walking around with a AR-15. And there's nothing that can be done, although just last year he was charged with sex trafficking. [LB776]

SPEAKER SCHEER: One minute. [LB776]

SENATOR WAYNE: It's time for this body to do something. It's time for this body to step up and make sure that those individuals who probably should not need a gun right away, shouldn't have one. And my bill is very simple, we put a pause on it till 25. All the studies show that individual children become of age around 25 where their mental faculties are better. And in addition to that, we allow their attorneys to petition the court to get their right to have a gun back. This is a modest approach. I hope the Judiciary Committee will vote it out and we can have a real debate about how we stop the gun violence, particularly assault weapons, in this state from 19- to 25-year-olds and even 18 and below. But the fact of the matter is unless you're in Omaha, 16-year-olds can have a long rifle, too, even though they've been convicted multiple times in juvenile court of multiple violent crimes, domestic violence, they can still have a possession of a rifle. They can't have a handgun in Omaha; we heard that debate last year. But they can have a rifle. That includes... [LB776]

SPEAKER SCHEER: Time, Senator. [LB776]

SENATOR WAYNE: ...a AR-15. Thank you, Mr. President. [LB776]

SPEAKER SCHEER: Thank you, Senator Wayne. Senator Chambers, you're recognized. [LB776]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, somebody sent me a verse, Luke 4:18, Jesus speaking, I believe: The spirit of the Lord is on me because he has anointed me to proclaim good news to the poor. He has sent me to proclaim freedom for the prisoners, which is something that we're not talking about doing here, we're saying let them use a phone call. But if your Jesus said, get up and set them free, people like Senator Lowe, Senator Groene, and to some extent, Senator Brewer, for the convenience of these sheriffs who ran for office because they want it, are showing me something about themselves that will make me have a different opinion. And I have to go by what people do. I was elected by people and they knew good and well that I was going use my judgment and not do like a parrot, what they tell me to say when they're not informed, to do like they do when they have no understanding of law making. No sheriff could call me and change my mind. But I'm going tell you about a sheriff who was in Thurston County for I don't know how many years with an Indian bounty, Senator Brewer, before I came. And nobody did anything except me. And you know what he did to

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Senator Brewer's people, because they made a certain amount of money for meals each day a prisoner was there? They would go out and arrest...Sheriff Clyde Story was his name. I helped run him out of this state, I believe. His eyes were so close together, I could take one finger and it would go in both of his close-together eyes at one time and I told him that at a committee hearing. That's why I didn't trust him. He would arrest an Indian at 11:59, let him out at 12:01. He was in jail two minutes and Clyde Story would collect from the county meals for two days. It was known as the Indian bounty and everybody knew and nobody would do anything until I came and I stopped it. That's why I'm so upset. That's why I talk like I do. I believe in doing things and you all sit and won't talk. I don't even hear Senator Vargas talk as much as he ought to and he knows about these things. You all are going to float because you know I will do it. But you all need to do it, too. I'm sure you didn't tell the people when you ran, I'm going to sit down there and the sheriffs tell me do this, I'm going to do it. I'll forget the poor. I'll forget the hungry. I'll forget the oppressed. I'll forget the ill, the mentally ill, the physically ill, the sick. I'll forget them. You talk about what you're going to do and I'm here and I see that you don't do it. And you all aren't the only ones. I've been here 43 years, listening to this and I'll tell you one thing, I understand why they hung Jesus on a cross. They didn't want to hear what he had to say and it was the religious people who conspired against him. And they did it and they were hypocrites like the rest of you all who would pray and talk that jive and when time came to do what could be done, you wouldn't lift a finger. You put together these heavy burdens for other men and put them on their shoulders and you wouldn't touch it with one of your little fingers, I told you about this Invictus rhyme that McVeigh said. He's the one who blew up the Murrah Building...Federal Building in Oklahoma City and killed hundreds, including children. They thought he would crack because he was going to be the first one executed by the government in a long time. And he didn't. He never cracked. And that infuriated people. He said: Out of the night that covers me, black is the pit from pole to pole, I thank whatever gods may be for my unconquerable soul. [LB776]

SPEAKER SCHEER: One minute. [LB776]

SENATOR CHAMBERS: In the fell clutch of circumstance I have not winced nor cried aloud. Under the bludgeonings of chance my head is bloody, but unbowed. It matters not how strait, s-t-r-a-i-t...it matters not how strait the gate, how charged with punishments be the scroll, I am the master of my fate: I am the captain of my soul. And that's the way he stood until they pumped the poison into him. And now he's a hero to these neo-Nazis. And I've got some documents I'm going to share with you all, an article that I wrote while he was facing death; he hadn't been executed. And I wrote something about the laughing ghost of Timothy McVeigh and then I wrote another column after he was executed and predicted... [LB776]

SPEAKER SCHEER: Time, Senator. [LB776]

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SENATOR CHAMBERS: ...how these white people... [LB776]

SPEAKER SCHEER: Senator, time. [LB776]

SENATOR CHAMBERS: You said time? [LB776]

SPEAKER SCHEER: Yes, please. [LB776]

SENATOR CHAMBERS: Okay. [LB776]

SPEAKER SCHEER: Thank you, Senator Chambers. Mr. Clerk. [LB776]

CLERK: Mr. President, Transportation Committee, chaired by Senator Friesen reports LB42 to General File with amendments. Education Committee, chaired by Senator Groene reports LB1081 to General File; LB912 to General File with amendments; and LB917 to General File with amendments. General Affairs, chaired by Senator Larson reports LB984 to General File. I have Transportation Committee confirmation reports. An amendment to LB157 by Senator Friesen to be printed. New resolution: LR318 offered by Senator Scheer; that will be laid over. Series of name adds: Senator Briese to LB308; Senator Geist to LB993; Senator Hughes, LB1069; Senator Lindstrom, Senator Riepe, Senator Friesen to LB1069. (Legislative Journal pages 700 to 705.) [LB42 LB1081 LB912 LB917 LB984 LB157 LR318 LB308 LB993 LB1069]

Mr. President, a priority motion: Senator Schumacher would move to adjourn the body until Thursday morning, February 22, at 9:00 a.m.

SPEAKER SCHEER: Colleagues, you've heard the motion to adjourn. All those in favor please say aye. All those opposed say nay. The ayes have it. We are adjourned.