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Floor Debate
March 20, 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 forty-fifth day of the One Hundred Fifth Legislature, Second Session. Our chaplain for today is Dr. Darrell Sutton of the Revival Tabernacle Church in Red Cloud, Nebraska, a guest today of Senator Ebke. Please rise.

DARRELL SUTTON: (Prayer offered.)

PRESIDENT FOLEY: Thank you, Dr. Sutton. I call to order the forty-fifth 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, Mr. Clerk. Are there any corrections for the Journal?

CLERK: No corrections.

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

CLERK: Enrollment and Review reports LB299 to Select File with E&R amendments attached. And I have amendments to be printed to LB1084. Mr. President, two announcements: General Affairs will have an Executive Session at 9:15 in Room 2102; the Agriculture Committee will have an Executive Session at 9:30 in Room 2022. That's all that I have, Mr. President. (Legislative Journal pages 1023-1024.) [LB299 LB1084]

PRESIDENT FOLEY: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following eight legislative resolutions: LR343, LR344, LR345, LR346, LR347, LR348, LR349, and LR350. We'll now

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proceed to the first item on the agenda, legislative confirmation reports. Mr. Clerk. [LR343 LR344 LR345 LR346 LR347 LR348 LR349 LR350]

CLERK: Mr. President, the Transportation and Telecommunications Committee reports on several appointments to the Information Technology Commission. (Legislative Journal page 920.)

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

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor and members of the Legislature. I rise to ask your support of six nominations to the Nebraska Information Technology Commission. The hearing was held on March 8. The committee voted unanimously to forward all six nominations to the floor for your approval. The first nominee is LaShonna Dorsey from Omaha. Ms. Dorsey would be a new appointment to the NITC. She is with the AIM Institute and previously was owner of a school in Omaha. She appeared to be well qualified for the position. The second nominee is Terry Haack, who is a reappointment. Dr. Haack has been a superintendent of schools at Bennington since 2004, served on the Education Council of the NITC before becoming a member of the commission, and he also should be reappointed. The third appointment is Dorest Harvey from Bellevue, who is also a reappointment. Mr. Harvey has a wealth of experience in technology and planning and is currently employed with The Garrett Group. I urge your favorable consideration of his reappointment. The fourth nominee is Thomas Nutt from Holdrege. Mr. Nutt is a new appointment to the NITC and is a current member of the Phelps County Board of Commissioners. Mr. Nutt is a retired member of the Nebraska State Patrol and a former sheriff of Phelps County, and I recommend his appointment. The fifth nominee is Gerald Warren of Aurora. Gary is an executive with Hamilton Telecommunications and has just completed his first term on the NITC. His experience makes him well suited for the commission. The final nominee is Walter Weir. Mr. Weir is also a reappointment and is the current chair of the NITC technical panel. He is a senior adviser to the president of the University of Nebraska. He is well qualified to continue his service on the NITC. I urge the Legislature to adopt the committee's recommendation and confirm all six of these appointments. Thank you, Mr. Lieutenant Governor.

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

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CLERK: (Record vote, Legislative Journal page 1024.) 32 ayes, 0 nays on adoption of the report.

PRESIDENT FOLEY: The confirmation report is adopted. Next confirmation report, please.

CLERK: Mr. President, the Health and Human Services Committee reports on Matthew Van Patton as director of the Division of Medicaid and Long-Term Care, Department of Health and Human Services. (Legislative Journal page 996.)

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

SENATOR RIEPE: Thank you, Mr. President, colleagues, and Nebraskans. Today I rise to present the nomination of Dr. Matthew Van Patton as the director of the Division of Medicaid and Long-Term Care. Before I do this, I would like to thank Deputy Director "Rocky" Thompson for his work as interim director since May of 2017. Mr. Thompson did an admirable job and we're very appreciative of his hard work. Dr. Van Patton comes from the great state of South Carolina and received a doctorate in health administration from the University of South Carolina. He has vast experience in the healthcare arena, working in the Spartanburg Regional Healthcare System, one of South Carolina's largest healthcare systems which serves approximately 11 counties, for over a decade. This system would be comparable to CHI Health here in Nebraska. While Dr. Van Patton does not have experience in the administrative side of Medicaid, he does have a great deal of knowledge regarding Medicaid working for Spartanburg in both rural and urban settings. He recently was the president and CEO of Cadre Medical Technologies, a company that provides systems that revolutionizes the connection, coordination, and recording of transcripts across the healthcare continuum. The company's goal is to improve experiences and outcomes, while facilitating great patient engagement and empowerment. Prior to founding the company, he also served as chief of staff for Representative Trey Gowdy of South Carolina. As Chairman of the Health and Human Services Committee, I understand and accept that Dr. Van Patton does not have specific Medicaid administrative experience, and I believe the state has a bright, energetic, and innovative talent who is a rising star and will quickly grasp the challenges at hand. In addition, he is a fine gentleman and of, in my opinion, great integrity. The Health and Human Services Committee will continue to provide a strong oversight over Heritage Health and will work closely with Dr. Van Patton to improve the Medicaid experience for members, the process for providers, while always keeping in mind the Nebraska taxpayers. I believe Dr. Van Patton will bring a great depth of knowledge and ability to the position, and I strongly urge the body to approve his nomination. Thank you, Mr. President. And with that, I would ask for your green vote.

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PRESIDENT FOLEY: Thank you, Senator Riepe. Debate is now open on the confirmation report. Senator Crawford.

SENATOR CRAWFORD: Thank you, Mr. Lieutenant Governor. And good morning, colleagues. In committee, I was present, not voting, and mostly for the chance to just make sure that we are very attentive in this process. And as the Chair has already noted, really want...the main yellow caution flag was the lack of Medicaid experience, lack of management experience in government. And that's a very different kind of management than private management. And so it's important I think with all this moving forward, whoever is on the HHS Committee and whenever we're on the floor debating issues that are coming up about our Medicaid system, that we're just very attentive to the fact that now in this era, when there are possible massive changes going on in Medicaid, that it's important that we pay particular attention to critique and oversight of what we decide to do with our Medicaid plan. With that said, however, I was very pleased during the oversight hearing that Dr. Van Patton talked about the fact that he felt it was important, when we were talking about managed care and long-term care, he talked about the importance of tackling what is in front of you before you start anything new. He talked about the importance of engaging stakeholders before you start anything new. And he talked about having a deep respect for historical perspectives. And those were all...I was very heartened to hear those commitments and also wanted to make sure we have those on the record as important commitments that he makes coming here. I was also impressed with the extent to which he talked about strategies to learn what's going on in Medicaid to make up for the fact that he's coming in without that experience, and that was very hopeful as well. Also one of the experiences that he does bring to Nebraska that's very hopeful is a lot of engagement in data analysis and data analytics. And so we have a lot of data that we've been pushing for many years to be used in our Public Health and Medicaid sides and so I am hopeful that his experience here will help us think in new ways about how to use this data and how to structure market analysis and move forward in ways with the data that we have. And so I'm excited about that opportunity. It's also the case that he does have experience in transition of care, which is also a critical issue for our Medicaid patients. So I will be voting green on his confirmation to this position and encourage you to do as well. I just wanted to make sure that we had a chance to be on the record of the challenges that we have ahead of us and recognize the importance of making sure that we are all working together and recognizing the need to work hard to make sure that we are very attentive to what's coming out and what the ideas and plans are in Medicaid moving forward, and that those who have that experience and expertise are heard and are...and that we are attentive to those voices as we make choices moving forward. And thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Williams.

SENATOR WILLIAMS: Thank you, Mr. President. Good morning, colleagues. I also stand in support of the confirmation of Matthew Van Patton. Anybody that has the name Matthew, to start

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with, should be confirmed, I believe. Right, Senator Chambers? I believe this is a good hire, a strong hire for Nebraska. I've had the opportunity to not only go through the hearing but also have a significant private conversation with Dr. Van Patton. Plus, yesterday we held the quarterly Heritage Health hearing on the update and I thought he handled himself very professionally. For a short period of time on the job--he's been here just a little over two weeks--he is working very hard to get up to date in that area, which we all recognize is a significant area for handling those cases of Medicaid reimbursement across the state. Most importantly, I think he continues to be the kind of person that we want to have running this department. As Senator Crawford said, his experience with analytics I think will be helpful. So I hope you will all support this nomination. Thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Williams. (Visitors introduced.) Continuing discussion on the confirmation report, Senator Howard.

SENATOR HOWARD: Thank you, Mr. President. So I rise to explain my vote in committee for Mr. Van Patton as well. I was also present, not voting, which I always consider sort of a soft no. And I went present, not voting because of my concerns around Mr. Van Patton's experience on the administrative side of Medicaid. He last worked at a hospital in 2010 and at that point in time he was really doing a lot of corporate governance work and in a certificate-of-need state. We are not a certificate-of-need state. And I'm not actually certain if South Carolina is even a managed care state, which we are and we continue to see some challenges in our managed care. But I do want to just make sure that the body sort of goes into this confirmation with eyes open and highlight what Senator Riepe said where Mr. Van Patton has very little Medicaid experience on the administrative side, which raises concerns only because we're looking at a lot of changes in the Medicaid program. There's been talk on the national level for a block granting program as opposed to the fee-for-service system that we have now. We're transitioning to value-based billing. And we've also continued conversations about transitioning our long-term care services into managed care, which is an enormous transition for those providers as well as for the patients that they care for. So with those, I just wanted to make sure that these concerns were on the record. Mr. Van Patton is a very nice, capable, qualified person, and I have every expectation that he will learn as he goes. We've also seen several of our appointees sort of walk into their roles not knowing very much about them and do very well. I would say Mr. Wallen at the Children and Family Services came in not knowing very much about IV-E. He's learned on the ground and he's done very well and I've been very impressed by him. So I hope, under Director Phillips' leadership, she will be able to guide Mr. Van Patton as he grows in his knowledge of Medicaid and really makes sure that we maintain that stability that this particular program needs, not just for the providers but also for the patients that they serve. Thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Howard. Senator Harr.

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SENATOR HARR: Thank you, Mr. President. Thank you for those words, Senator Howard, because what you stated were a lot of my concerns in that I don't know this Mr. Van Patton from Adam and I know nothing about him. But having listened and looked at what his resume is, I do find it a little short. And I was wondering if Senator Riepe would answer some questions.

PRESIDENT FOLEY: Senator Riepe, would you yield, please?

SENATOR RIEPE: Yes, I will.

SENATOR HARR: Thank you. Senator Riepe, you voted for Mister, is it, Van Patton?

SENATOR RIEPE: That's correct.

SENATOR HARR: Okay. And you voted for him?

SENATOR RIEPE: Yes, I did.

SENATOR HARR: Okay. And you gave a brief description of his background and I'm not sure what in his background qualifies him going forward other than he's a very nice gentleman, which I assume he is. My question to you then is, is the Department of Health and Human Services going to take any actions to make sure he receives the proper training so that he is eligible to...and qualified to do his job?

SENATOR RIEPE: Thank you for that question. And I would say this. One of the things that we're fortunate enough is Director Thompson, who has been the interim, the acting since Mr. Calder Lynch left, and he will be here and he will be, if you will, helping him to get oriented. I'd also like to point out that when Calder Lynch first started, Calder Lynch had no experience in Medicaid either but turned out to be a star.

SENATOR HARR: Okay. And I'm not going to deny, Calder Lynch was a good guy. But past performance is no indication of future performance, especially when it's two separate individuals. So my question is, and if you can answer it--if you can't, that's fine--do you know, are they going to provide any specialized training for him so that...it looks like he may have some administrative background. However, as far as subject matter knowledge, I would argue he is...and I think you conceded he's lacking. So are there steps going to be taken by HHS to make sure he receives the proper subject matter training?

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SENATOR RIEPE: The answer to that, briefly, would be yes. And they have put together briefing books. I know that he has been digging in on those since his arrival to get fully up to speed as quickly as he possibly can to benefit us.

SENATOR HARR: Okay. And these briefing books, who prepared the briefing books?

SENATOR RIEPE: Those were prepared by the staff within the Medicaid Division.

SENATOR HARR: Okay. And that's the Medicaid Division of Nebraska?

SENATOR RIEPE: Yes, the Nebraska Medicaid Division.

SENATOR HARR: Okay. And is this the same division that had some problems when Lieutenant Governor was the Auditor and we had some issues?

SENATOR RIEPE: Well, the change has been significant there because we moved from, if you will, fee-for-service Medicaid over to managed care Medicaid. So it's a significantly different department than when it was audited by then-Auditor Foley.

SENATOR HARR: Okay. And what changes have they made?

SENATOR RIEPE: Well, the changes that they've made, it's a completely different delivery model in terms of going to managed care. And they have set up, under then-Director Lynch, they set up the requirements for contractors to be qualified and be selected to provide managed care to a select number of eligible Medicaid recipients.

SENATOR HARR: Okay.

SENATOR RIEPE: So it's a totally different model.

SENATOR HARR: Okay. So it's a different model. And has there been any training on the federal level? Will the feds come in and help train him so that he can be adequately trained in this new modeling?

SENATOR RIEPE: Well, basically it's the state's responsibility to run the programs. It's the federal government's responsibility to provide financing.

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SENATOR HARR: Okay. Thank you. Did you hear that, folks?

PRESIDENT FOLEY: One minute.

SENATOR HARR: It's the state's job to do the program and yet we put in a guy who, by all accounts, is a really nice guy. I know a lot of nice people. Doesn't mean they're qualified to do the job. And we've provided him a briefing book. Briefing book, that's it, no formal training, just a briefing book. I'm going to go ahead and support him because of Courtney Phillips, but, boy, he better be careful and, boy, the Governor better be careful he chose the right person. And this person better not be a political appointment but better actually take time to learn the subject matter and do a great job because I think we've laid a pretty good record here of saying a questionable background. But we're going to give him the benefit of the doubt, but he better prove us right. Thank you.

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Erdman.

SENATOR ERDMAN: Thank you, Lieutenant Governor Foley. I was also in the hearing when Matthew Van Patton came in to testify and share his work experience. I was pleased to get an understanding of his managerial abilities and the things that he had done in the past. That was not my first encounter with Dr. Van Patton. I had seen him on a couple other occasions privately and then had a meeting with him and Courtney Phillips a couple of days before the hearing. Listening to his background, understanding the people that he managed and the things that he accomplished, I believe he has the kind of skills that we need to manage the group of people who are going to deliver Medicaid services. As Senator Riepe rightfully stated, Calder Lynch had little or no experience in Medicaid when he came here, but he did quite well. And I believe that Dr. Van Patton will do the same. But I do appreciate his management style. One thing I think that Dr. Van Patton brings to this position, he's a very approachable young man, very able to listen, very capable of listening to what your comments or concerns are and understanding what it is you're trying to get across and doesn't come across as being high-minded or arrogant. A very nice young man and I think his managerial skills will fit well with Ms. Phillips. Ms. Phillips' style is similar. I appreciate what she has done there. She has come here to make a difference and I believe she has. She has work to do yet and she knows that. So I think the two together make a great team. And I support the confirmation of Dr. Van Patton. Thank you.

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Brewer. Senator Brewer, did you wish to speak? He waives the opportunity. Senator Riepe, you're recognized to close on the confirmation report. He waives closing. The question before the body is the adoption of the confirmation report from the Health and Human Services Committee. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

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CLERK: (Record vote, Legislative Journal page 1025.) 28 ayes, 0 nays on adoption of the report.

PRESIDENT FOLEY: Confirmation report is adopted. Next confirmation report, please.

CLERK: Mr. President, the Health and Human Services Committee reports on a series of appointments to the Commission for the Deaf and Hard of Hearing. (Legislative Journal page 996.)

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

SENATOR RIEPE: Good morning, Mr. President, colleagues, and Nebraskans. I rise to present four reappointments to the Commission for the Deaf and Hard of Hearing. The Commission for the Deaf and Hard of Hearing promotes and advocates for Nebraskans who are deaf, deaf and blind, or hard of hearing to achieve equality and opportunity in social, educational, vocational, and legal aspects impacting their daily lives and to enhance and monitor access to effective communication and telecommunications technology. The first nominee is Jeremy Fitzpatrick, who is a resident of Omaha and is an associate partner at Kutak Rock, an Omaha law firm. He brings a unique perspective to the commission as a parent of a child who is hard of hearing. The second nominee is Stacie Ray, and she is a resident of Lincoln and is an associate professor of audiology at the University of Nebraska-Lincoln. She is licensed, is a licensed audiology (sic) in Nebraska and holds a certificate of clinical competency from the American Speech-Language-Hearing Association. She manages the hearing aid clinic at the Barkley Memorial Center. She has also established the Nebraska Children's Hearing Aid Bank in 2007, HearU Nebraska in 2011, and HearU International in 2015, all of which provide children with hearing aid equipment. The third nominee is Diane Schutt. She is a resident of Fairbury. Prior to retiring she taught high school journalism for 35 years. She has served on the Nebraska High School Press Association board, the Fairbury Education Association, and has helped with the Bonham Theatre project. The fourth nominee is Norman Weverka, who is a resident of Brainard, Nebraska, and most recently served as a field representative for the Nebraska Commission for Deaf and Hard of Hearing. He has also been an after-school programer for the Nebraska School for the Deaf prior to its closure, and as a deaf advocate advisory for the League of Human Dignity. All four individuals were recommended with a unanimous vote and I strongly urge their confirmation. With that, I ask for your green vote. Thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Riepe. Debate is now open on the second confirmation report from the Health and Human Services Committee. Senator Harr.

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SENATOR HARR: Just quickly, I just wanted to add a note on Jeremy Fitzpatrick. I worked with him for a number of years. He is a wonderful person. I'm not sure about his managerial skills, but he is a wonderful person and I highly recommend him. Thank you.

PRESIDENT FOLEY: Thank you, Senator Harr. Any further discussion? Seeing none, Senator Riepe, you're recognized to close. He waives closing. The question before the body is the adoption of the confirmation report from the Health and Human Services 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 1025-1026.) 25 ayes, 0 nays on adoption of the confirmation report.

PRESIDENT FOLEY: The confirmation report is adopted. Items for the record, please, Mr. Clerk?

CLERK: Mr. President, your Committee on Enrollment and Review reports LB42, LB104, LB157, LB379, LB685, LB697, LB702, LB724, LB773, LB913, LB993, LB1078, and LB1090 as correctly engrossed. (Also LB931 as correctly engrossed.) New A bill. (Read LB993A by title for the first time.) And, Mr. President, an amendment to be printed to LB1090 by Senator Krist. An announcement: Natural Resources will have an Executive Session at 10:00 under the south balcony. That's all that I have, Mr. President. (Legislative Journal pages 1026-1027.) [LB42 LB104 LB157 LB379 LB685 LB697 LB702 LB724 LB773 LB913 LB993 LB1078 LB1090 LB931 LB993A]

PRESIDENT FOLEY: Thank you, Mr. Clerk. We'll now proceed to General File, 2018 Speaker priority bill. Mr. Clerk.

CLERK: Mr. President, LB596, a bill by Senator Groene, relates to the Veterinary Medicine and Surgery Practice Act. It adopts (sic--exempts) equine massage therapy from licensure and regulation. The bill has been discussed on the floor, Mr. President, as recently as March 6. The committee amendments are pending, as is a motion to bracket the bill. Mr. President, Senator Chambers would move to bracket the bill until April 18 of 2018. [LB596]

PRESIDENT FOLEY: Senator Groene, you're recognized to open on LB596. [LB596]

SENATOR GROENE: Thank you, Mr. President. To refresh our memory, we brought LB596 after discovering that Nebraska has not one single licensed or registered equine therapist...equine massage therapist in the state because of our regulations and licensure requirements,

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overregulation and licensure requirements. Originally, the veterinarians association was the main opposition, basically the opposition to LB596, but worked over the summer with them to correct their concerns. We've taken out the word "therapy" and instead...and took out the word "horse"-- Senator Kuehn helped us with that--and expanded it to equine, which is also zebras and donkeys and mules, and referred to it as a practice. It's more of a holistic approach to horse equine health and it doesn't belong in veterinary medicine where therapy and manipulation of bone structures and through physical therapy and chiropractic is more of a concern. So, and I appreciate Senator Chambers and Senator Harr for catching some errors in our bill that we overlooked. We accepted what bill writing had done and I concentrated on the amendment and not the existing bill. So later we'll be introducing AM2315. I wanted to make a point, too. In April the International Omaha, April 12 and 15, will be in Omaha with a...it's an equestrian event, and none of the money used on equine massage will remain in Nebraska because these individuals who bring their horses in will have to bring in their own therapists because there is none to hire in the state of Nebraska. We need this legislation to expand our economy and to create more economic development in another field that people can endeavor into. And when we get to AM2315, it will eventually replace the committee amendment, AM621, and the committee amendment will replace the language of the bill. We have talked, we are going to pull our AM1500 and I believe Senator Kuehn has agreed to pull his amendment also, FA112, because the AM2315 fixes those situations. It also fixes what Senator Harr and Senator Chambers had a problem with. Bill writing had stuck the word "licensure" in, into the veterinary law, and we overlooked that, and I am very grateful to them for catching that. So if we get to that point, I have shown Senator Chambers the amendment and his comment to me was that's what I would have written if I had written the bill. So hopefully he will help us help these individuals create an opportunity for themselves and create a service for those involved in the equine industry in the state of Nebraska. So thank you and we look forward to the debate and questions. [LB596]

PRESIDENT FOLEY: Thank you, Senator Groene. As the Clerk indicated, there are amendments from the Health and Human Services Committee. Senator Riepe, you're recognized to open on the committee amendment. [LB596]

SENATOR RIEPE: Thank you, Mr. President, colleagues and Nebraskans. As a recap, AM621 is a simple amendment. AM621 strikes "high-performance." This change in language is to allow all horses to receive massages, not just those horses believed to be high-performance. Thank you, Mr. President. [LB596]

PRESIDENT FOLEY: Thank you, Senator Riepe. Mr. Clerk. [LB596]

CLERK: Mr. President, Senator Chambers would move to bracket the bill until April 18 of 2018. [LB596]

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PRESIDENT FOLEY: Senator Chambers, you're recognized to open on your bracket motion.
[LB596]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, many things are said on this floor in anger. I have said many things in anger. I wanted to give, I'll be frank, I wanted to give Senator Groene some heartburn over those four days. There is a verse in the Bible that says, notice I said Bible...speaking of that, because sometimes I digress, I watch on television when you all come up here for your rituals and you all had a Jesus moment today when you were saying the flag salute. Jesus said where two or three of you are gathered together in my name, there will I be in the midst of you. When there was a panoramic shot, you had two or three in here. And when there are two or three, I call that a Jesus moment. So most of the people are not concerned about that. This month has been dubbed Women's History Month. Before this month is over, there are a couple of "ERNIE-GRAMS" that I intend to hand out to commemorate and acknowledge that month because not much is said that benefits women. Now that other verse I was going to mention from the "Bibble," back to my old self, "The fathers have eaten sour grapes and the children's teeth are set on edge." That is a highfaluting way of saying that the innocent shall be punished for what the guilty may have done. This bill, based on what we've heard so far, is designed to benefit women. They cannot help it that the one who carried it is a mean-spirited, crusty, insensitive person who doesn't think that children need to be protected in court. And I cannot do anything to harm the interest of those women just because the only horse they found to ride was really more in the category of a donkey or a jackass. So this motion will not be carried through and I'm not going to fight the bill. But I put that motion so that I could say a few things outside of discussion of the bill itself. One of the things that I believe is very important has to do with the status of women in this society. Before the day is over, I'm going to comment about what a coward with a radio station in Lincoln and a sleazeball named Maxwell from Omaha, who has one of those so-called conservative radio programs, when they attacked my seatmate, Senator Blood. One thing I was disappointed about in the coverage of some comments she made on the floor is that the reporter failed to mention that a man stood on the floor and backed her, supported her, and added to what she said. It gave the impression that Senator Blood was standing out here alone. But that's not mainly what I want to talk about right now. There is a poem that Rudyard Kipling wrote. Now I might get some of the couplets out of place, but it's called If, and I decided that I would add something to it. It says, more or less: If you can keep your head when all about you / Are losing theirs and blaming it on you, / If you can trust yourself when all men doubt you, / Yet make allowance for their doubting too; / If you can bear to hear the words you've spoken / Twisted by knaves to make a trap for fools, / If you can watch the things you gave your life to, broken, / And stoop and build 'em up again with worn-out tools: / If you can dream--and not make dreams your master; / If you can think--and not make thoughts your aim; / If you can meet with Triumph and Disaster / And treat those two impostors just the same; / If you can walk with crowds and keep your virtue, / If you can walk with Kings--nor lose the common touch, / If all men count...oh, if neither foe nor loving friend

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can hurt you, / And all men count with you, but none too much; / If you can fill the unforgiving minute / With sixty seconds' worth of distance run, / Yours is the Earth and everything that's in it, / And--which is more--you'll be a Man, my son! It always bothered me that things that are high-sounding wind up as a paean to males. So I decided that I would add an ending to that poem by Kipling: If you can scale the highest mountain / And not be cowed by ocean's torrential water, / You shall drink from wisdom's crystal fountain, / And--which is more--you'll be a Woman, my daughter! Now, that's what I wanted to get out today. These other issues that pertain to women cannot be allowed to go by without being comment on...commented on, on the floor of this Legislature. I intend to keep doing that. When people wonder why I do it, my mother was a woman. In fact, on that point, you know I have to love women. I was born in bed with a woman. So what am I to be? I had three sisters; all of them died. I have nieces, innumerable nieces. But I wouldn't have to talk only about female members of my family. I have seen females all of my life. The discussions are as though females are not part of the same species as males. If that were true, it would mean, in my opinion, that females are of a higher order. Men are the ones who create wars where thousands, tens of thousands, hundreds of thousands, over a million young men will be slaughtered for nothing. Old men make wars; young men fight them. Then to try to pretty everything up and wipe the blood from their guilty, vicious hands, they want to talk about patriotism, talk about heroism. I don't see anything heroic about flying a high-powered jet fighter or bomber and killing hundreds of civilians. That's what Americans are doing in Syria. That's what Americans are doing. They have the nerve to be talking about sending an old, old man from Minnesota back to...maybe it's Poland to be charged with war crimes because he had something to do with what is called the Holocaust--killing civilians. What is America doing now? What did they do in Iraq? What did they do in Afghanistan? What have they always done? One of the things being commemorated now is the 50th anniversary of Calley killing those civilians at My Lai in Vietnam. And when that happened, I brought a resolution to the floor of this Legislature and recommended that he be given a Congressional Medal of Honor instead of being prosecuted. He was the only one who went to trial on that atrocity. You know why he should get a Congressional Medal of Honor? Because killing civilians, attacking the weak, attacking the defenseless is of the warp and woof of Americanism. Even in this country Native Americans were slaughtered because white people had the kill power. Black people were lynched, burned alive, had the flesh stripped from their bodies because white people came in mobs and they had the kill power. Then here's... [LB596]

PRESIDENT FOLEY: One minute. [LB596]

SENATOR CHAMBERS: ...poor Lieutenant Calley, having been bred to this violence, to this destruction of the innocent, and he carried it out in Vietnam, where America shouldn't have been in the first place, and then they charge him with a crime. What kind of nonsense is that? You should expect your children to imitate and replicate what you show to them. All of the movies Calley had seen, everything that he was exposed to should make you all praise him. You know

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why I condemn him? Because the innocent should never suffer and these old men who make wars should be war criminals. And if Germany had won the war, you would have seen a different cast of characters at a war crime trial. The victors are always those who press the charges. The ones who lose are always in the box for the defendants. Thank you, Mr. President. [LB596]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Harr. [LB596]

SENATOR HARR: Thank you, Mr. President. You know, here we are again, talking about massage parlors, massage parlors, massage parlors for equines. And, you know, I want to thank Senator Groene for listening and taking a bill and making it better. But, but, and there's always a but--right, Senator Groene--earlier this year I had a bill for animals. It was on ivory, to protect elephants, rhinos, and most specifically northern white rhinos. I don't know if anyone saw the news this morning. The last white male rhino died. There are two females alive, neither one of them probably going to be able to carry a baby to term. One is sterile and the other one is physically incapable. We had a bill where we, in the Legislature, said let's stand up and let's say no to ivory; let's protect these endangered species. Three of the five are in critical extinction. Five of the five species of rhinos are endangered, not critically but endangered. And we're talking about an animal getting petted, massaged. That's what's important, not saving a species but heavy petting a species. What's that about, folks? Where are our priorities? If we really care about animals, don't we want to make sure that they survive? Sure, we want them to be comfortable. I get that. But the survival of a species, to me, is way more important. In 1960, there were over 20,000 northern white rhino. In the mid-'80s there were still about 1,500 in nature, outside captivity. And what's happened? They've been poached. And what are we doing about it? Nothing. Senator Chambers in the '80s was one of the...we were the first state to say to South Africa we will not invest in your apartheid companies; we will not invest with the country of South Africa. Was it much? No. Was it symbolic? Probably a little bit more, but not much more. But it started a movement. And we stood up and we said right is right and wrong is wrong. And that's what we are trying to do with the ivory--stand up and say right is right and wrong is wrong and we're going to enforce those ivory bans here, no more, no greater than on the federal level, but here on the state level because, surprisingly, the feds have more important things to deal with, like Russians invading or, excuse me, Russians tampering with our elections, others tampering with our elections, people inside America tampering with our elections. We have bombs being exploded in Texas. All these things are very important. And maybe a couple rhinos don't amount to a hill of beans in Senator Groene's world. But making sure a horse is comfortable and doesn't have achy muscles, that's the line in the sand, folks. We got to worry about that. Senator Larson, his first year down here, wanted us to eat horses. He had a bill to slaughter horses to make them consumable. We'd sell them to Vietnam and France and other places, so we probably wouldn't eat them here. And now, now we're on our second... [LB596]

PRESIDENT FOLEY: One minute. [LB596]

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SENATOR HARR: ...three hours making sure they can get properly rubbed down, that they can get a proper massage, so they can be...their muscles don't hurt. What's crazy to me is that we had this for a number of years, this bill, this law, when we had Ak-Sar-Ben, when we had horse racing across the state in Columbus, in Grand Island, even down here in Lincoln, and it was never a problem. But now, in this era of deregulation, we want to make sure they can get that massage but maybe not properly, maybe not with the proper training. When we had horse racing here and we had a lot of high-end, very expensive horses, we wanted to make sure it was done properly. Now, near as I can tell, we don't seem to care. On the one side, we want to make sure... [LB596]

PRESIDENT FOLEY: Time, Senator. [LB596]

SENATOR HARR: ...they can get that rubdown. Thank you. [LB596]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Kuehn. [LB596]

SENATOR KUEHN: Thank you, Mr. President. Thank you, colleagues. I rise in support of LB596. I want to take us a little bit to the bill, also provide some technical insight and some experience to what we're discussing here because, while it's kind of fun to snicker about the idea of equine massage and all of that, I do want to provide a little bit of insight into the scope of practice. I support Senator Groene's LB596. The language on the bottom of the second page in line 31 that exempted other licenses could easily be stricken. There were some language issues in the green copy of the bill that used "horse" and "equine" interchangeably, which they're not. All horses are equines but not all equines are horses. But I think now with the amendment we've gone a step too far. And I guess I disagree with Senator Harr's reasoning or rationale for the approach to the bill. I really think when we talk about all that we've talked about with occupational licensing reform around LB299 and others, I think what we're doing here, it creates some snickers because some of it is just a little bit beyond comprehension that we're going to require registry for someone to perform an equine massage. And what I'm concerned about here, as a licensed veterinarian, is what we're doing is we're just doing good old-fashioned protectionism here. Let's be real. You can throw a 35-, 40-pound saddle on the back of a horse. You can wear spurs. You can ride it around all day. You can do all of these things and you don't require a certification or license or training. So if our standard for requiring a certification is the health, safety, and welfare of a horse, what are you possibly going to do in massage to an 1,100-1,200-pound mature performance horse that is going to put the health, safety, and welfare of that animal in jeopardy? This is an issue because someone who sought training and expertise and wanted to have a business providing care to horses received a cease-and-desist letter. And the fact that equine massage therapy would be considered requiring a credential or fall under the Veterinary Practice Act is absolutely ridiculous. I appreciate that Senator Groene has taken out

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the word "therapy" because apparently "therapy" is a medical term, which is interesting because we market with aromatherapy all the time. You can buy a tub or a spa for hydrotherapy. So the use of the word "therapy" does not, by any means...if that's our standard for requiring a credential or a license, I don't even know where to begin. And when it comes to existing practice and existing care of livestock, specifically equines, look at what farriers do. Farriers in many cases are driving nails into the foot of a horse. They are paring away sole and hoof. They are adjusting angulation of feet and we don't require them to have a credential. This idea of having a registry, I realize Senator Groene was doing a compromise with the Veterinary Association, but it's just good old-fashioned protectionism. The survival of the species that we're worried about is the survival of market share for veterinarians, of which I am one. And I have absolutely no problem with someone hanging out their shingle and having a competitive business with mine providing equine massage. It is not the practice of medicine. It does not impact the health, safety, or welfare by a potentially untrained individual or inadequately trained individual. And as we go through what the registry includes, I'm kind of curious. If this bill is passed... [LB596 LB299]

PRESIDENT FOLEY: One minute. [LB596]

SENATOR KUEHN: ...with the registry--thank you, Mr. President--I'm kind of curious how it will go through the LB299 process if that's passed next year. Two letters of recommendation by two veterinarians attesting to the qualifications of an equine massage therapist, it's paperwork for the sake of paperwork. If our goal in this bill is to improve access of individuals to jobs and careers while simultaneously providing access to care which may be beneficial to animals, let's remove all of the barriers. Let's not create additional red tape for the sake of creating more red tape, and that's what it is. And the big debate I think that we need to focus on in a lot of these credentialing laws is when is it about health, safety, and welfare, and when is it about protectionism. And I'm the first to stand and require that we have adequate certification and processes to protect the safety and health of animals. I will support Senator Groene in where he goes with this, but there are some really serious issues here in terms of what we're saying as a Legislature. [LB596 LB299]

PRESIDENT FOLEY: It's time, Senator. [LB596]

SENATOR KUEHN: Thank you, Mr. President. [LB596]

PRESIDENT FOLEY: Thank you, Senator Kuehn. Senator Chambers. [LB596]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, as I stated, I want this motion to give me the opportunity to speak. But when it comes to the bill, Senator Kuehn's presence here today and his knowledge may help give some additional guidance as to

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how this legislation should finally appear. I don't particularly care about it one way or the other. I have other apples to peel. But I think he has raised some very significant issues. Ordinarily, because of my interest in how we legislate, I might have a lot to say along the line of what Senator Kuehn is discussing. And I hope he can find it in himself to assist in putting this into the kind of shape maybe he feels it should be to accomplish the goal that has been stated. But there are things that I want to get into the record and I intend to do that. Senator Groene is a person--and he drags Senator Lowe along with him--who has just about succeeded in making it seem that people in rural Nebraska are bumpkins. They're not too bright, not too swift. They're back in the Dark Ages and don't care about children. They think that parents know more about the law than the lawyers and the courts. They think that because these parents say I don't like this or I don't like that, then legislation ought not be put in place to protect the intrinsic right that children should have. It causes me to wonder if some of the activities that were happening out there in Utah with the Mormon Church might not be happening in western Nebraska. Those children have been thrown to the wolves as far as protection in court, and I'm wondering if some of these home schools and other things might not be places where children are abused. And if you can get across the idea that children in rural areas have no right to access to the courts, no right to a lawyer, then there's no place for them to turn when they are abused in the home by men and by women. It must be happening more in the rural areas, because I have not seen anybody from any other civilized portion of the state so adamant against allowing the law to provide an umbrella of security and safety to children. Now, I'm not going to say that they're all bumpkins out there, but when their representatives tell me that they are, and Senator Erdman also, not to the extent of Senator Groene, and as I say, Senator Lowe is being dragged into that circle, I do have a different image of what goes on in the rural areas. People stopped referring to it as "out-state Nebraska" because there were rural people who were offended. They said it seemed like they were being put way out of the realm of civilized society. They wanted...or people who came here said they would rather be referred to as "greater Nebraska." Well, I don't know of anything greater about the rural areas. Even with all the talk of agriculture, there is corporate farming. There are large corporations who don't have agriculture as their primary focus, but it has to do with their overall portfolio aimed at making profit. People come here and talk about ethanol. They don't want regulation but they want the federal government to insist that a certain amount of ethanol be put... [LB596]

PRESIDENT FOLEY: One minute. [LB596]

SENATOR CHAMBERS: ...into petroleum products, not letting the market prevail, not letting those who say they want to make money make it on their own by their ability. They want to put a finger or a thumb on the scale and favor ethanol, which I won't put in my car. I have a lawn mower and it specifically says don't use ethanol, so it's a product that cannot be used in every device that burns some kind of fuel. And here they are on the floor yapping about free market, yapping about federal regulation, but insisting that regulations be put in place to benefit their

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particular interests. And it brings me back around to what I was discussing. I think women get short shrift in rural areas, too. And I can't help believing that because of the way the men who come from those areas... [LB596]

PRESIDENT FOLEY: That's time, Senator, yes. [LB596]

SENATOR CHAMBERS: ...comport themselves and the things that they say. Did you say time? [LB596]

PRESIDENT FOLEY: It's time, Senator. [LB596]

SENATOR CHAMBERS: Thank you, Mr. President. [LB596]

PRESIDENT FOLEY: Thank you, Senator Chambers. (Visitors introduced.) Continuing discussion, Senator Pansing Brooks. [LB596]

SENATOR PANSING BROOKS: Thank you, Mr. President. Again I rise, number one, in gratitude for the people who were with me on right to counsel last week and get the issue. It is sad that our Legislature is probably going to find that the horse massage issue is a crisis in our state and protect the rights of horses to have massage--I actually heard horses have rights to have massage--but we are unable to protect the children and their constitutional right to counsel--a constitutional right versus the right of a horse. I'm sorry, I've never heard in any part of my legal studies that horses have rights. Now there are those who protect them wholeheartedly, and I get that and it's important, but to act as if they have a right to massage is...and that this is a crisis and that this is a serious issue and has risen to the level of a crisis in Nebraska, to me, is just unbelievable. And, you know, there's no question Senator Groene thinks that...said that the bill on right to counsel was poorly written, that it was a stupid bill, and I just think it's so sad that this Legislature is probably going to go down as the Legislature that found horse massage and the rights of horses more of a significant issue than the rights of children who don't understand the whole judicial process. We're going to protect the rights of horses. We're going to fall on the side of protecting the rights of horses. You know, I'd feel a lot better about this if we decided to not have legal counsel in this body, because certainly we don't need legal counsel to be able to look at all these issues. Senator Groene, could you answer a question, please? [LB596]

PRESIDENT FOLEY: Senator Groene, would you yield, please? [LB596]

SENATOR GROENE: Yes. [LB596]

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SENATOR PANSING BROOKS: Senator Groene, why do you think that you need legal counsel in the Education Committee? [LB596]

SENATOR GROENE: I never said I did, did I? [LB596]

SENATOR PANSING BROOKS: Oh, no, you haven't. So do you? [LB596]

SENATOR GROENE: I write my own bills. [LB596]

SENATOR PANSING BROOKS: Okay, so... [LB596]

SENATOR GROENE: When I get in trouble is when I trusted legal counsel sometimes too much. [LB596]

SENATOR PANSING BROOKS: So... [LB596]

SENATOR GROENE: I forgot to double-check on this bill, the language, and I got caught. I can read. I can read a law book, by the way. [LB596]

SENATOR PANSING BROOKS: Well,... [LB596]

SENATOR GROENE: Some of us can. [LB596]

SENATOR PANSING BROOKS: Yes, that's true. Many of us can read, which is good. The nuance of having legal studies is to understand how it all relates, how municipal ordinances relate to a constitutional amendment and if it does, and how the laws and the common law relate to constitutional and Supreme Court laws. So, you know, Senator Lowe stood up and said we should try not to have a divide of lawyers and nonlawyers, and I would agree that we have to make sure that no one feels dismissed by their knowledge or accelerated by somebody's particular education and study. But again, my friends, we trust those of us in the body, our colleagues, who have a particular knowledge. I listen to Senator Lowe about issues regarding bars and about rural issues, and I listen to my other friends in this body about the issues of which they know most. And so it's not a matter of saying who knows more on this or that. It's a matter of what experience we've each had and what education we've each had in a particular area. So again, I am not going to stand up and extend the debate... [LB596]

PRESIDENT FOLEY: One minute. [LB596]

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SENATOR PANSING BROOKS: ...on the issue of horse massage. I direct any of you, for any kind of humorous reading that you would like, to the testimony at the hearing. It's literally some of the most amusing testimony I've ever read. So those of you who want to read something funny, please, read the testimony and then you can see how we are using our state dollars by working to support the rights of horses to have massages and fighting against the ability for children to have...to understand their constitutional rights and to be able to protect themselves in the exercise thereof. Thank you, Mr. President. [LB596]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. (Visitors introduced.) Continuing discussion, Senator Kuehn. [LB596]

SENATOR KUEHN: Thank you, Mr. President. Thank you, colleagues. Again back to the bill, again, this isn't about the rights of horses. This is about the ability of individuals who have knowledge and a desire to have a job performing a service to do so reasonably without excessive red tape and regulation by the state. I do want to make sure that it's clear to everyone in the body and everyone listening and everyone on the record, I am not representing the position of the veterinary profession, as represented by the Nebraska Veterinary Medical Association. They're doing what they do, which is protectionism of their turf. They've already acknowledged that equine massage is outside of the scope of veterinary practice and does not require a veterinary degree. So the question becomes, what additional protection to the animal is provided by the development of this registry, which is one of their requirements for support of LB596? So I want everyone to be clear, I support LB596. I absolutely think we need to remove the impediment or requirement that equine massage therapy requires a veterinary degree. That's a preposterous issue. I know some are wanting to use parity between human procedures and animal procedures, and you just can't, say, compare the two. We recognize there's a potential health and safety issue with human procedures on nails, on some aspects of human grooming and hair care, podiatry, and human massage therapy, all of which are very different from the practice of those in animals. You don't require licensure to trim a dog's toenails or, in the case of horses, to be a farrier. You don't require licensure or registry to do pet grooming. And I think if anyone proposed doing so, we would all think that it was ridiculous and protectionistic. So my question is, why are we...what are we accomplishing with the development of this registry? How are we improving the welfare of the animal? I think we have to continue to think, as we are here in this body, who are we appeasing here? By creating this registry, are we improving the health, safety, and welfare of the animal? I don't think there's any credible evidence to support that we are. What we're doing is we're appeasing a special interest that wants to protect their turf, and the protection of the turf is very odd, in my mind. Again, the first time this was debated I was actually at a veterinary conference for getting continuing education, and some of my colleagues from Nebraska and I and alumni from Kansas State got together and this bill came up. And it was just laughable in terms of why are we creating a registry and what's happening here. So I really believe if we're going to be serious about talking about reducing barriers to people getting to

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work, running a business, contributing to our economy, we need to think carefully about what kind of barriers we are creating in this body and why we are creating them. So if it were my preference, if it were...if I were running this bill, I would certainly support LB596. I think we need to take out the language on the bottom of page 2 that looks at the exemption of all licensure, which Senator Groene acknowledged, and make the parity between...remove all the term "horse" and replace with "equine," and we've got a great bill. We've got a bill that is doing what it's intended to do, which is to remove this process from outside the veterinary scope of practice, allows people...in many cases, as Senator Chambers identified, these are women with a sincere and genuine interest in improving the health and well-being of animals through their own investment in training, their own investment in creating a business and allowing them to get to work. [LB596]

PRESIDENT FOLEY: One minute. [LB596]

SENATOR KUEHN: Creating another registry, again, I don't even know...I don't even know what the registry is going to accomplish. Two letters of recommendation from two veterinarians, I mean if there's no liability or supervision required by the veterinarians, I guess I'll tell anybody here I'll give you a blanket letter across the state. Line on up and I'll give you one, because at this point it's not guaranteeing the health and safety of the animal. It's just another hoop that people have to jump through, a hoop which we identified a couple years ago with nurse practitioners where it's doctoral-level people wanting to have control of all of the paraprofessionals and individuals within that area. So, again, I want everyone to be clear, I support LB596. I think that the creation of the registry is needless, both as a veterinarian and as a policy position. And if Senator Groene wants to move forward with that amendment and that's where he needs to go to make sure he has the full endorsement of the NVMA, that's ultimately his bill and his decision. But I hope we can take this out... [LB596]

PRESIDENT FOLEY: Time, Senator. [LB596]

SENATOR KUEHN: ...of being something that we laugh about and really looking about good policy. Thank you, Mr. President. [LB596]

PRESIDENT FOLEY: Thank you, Senator Kuehn. Senator Ebke. [LB596]

SENATOR EBKE: Thank you, Mr. President. And I rise in support of LB596. And I hate to beat a dead horse but I really do agree with Senator Kuehn on many of these issues. If I go back to LB299, which we will probably debate again next week on Select File, this could have solved our problems with respect to LB299. If we had it in place already, we wouldn't even be talking about LB596. The review process that we would have gone through with LB299 would have

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tagged the horse...the equine horse--what do we want to call it--equine massage bill. It would have dealt with that right away. We would have noticed right away that we had no licenses issued and it would have triggered a...or it could have certainly triggered a response by the committee to do away with a license that there were no licensees for. The other thing that I think it's important to remember, and again I agree with Senator Kuehn's assessment of this, do we really need to have any sort of government regulation of this profession or of this occupation? It is in many ways a protectionist scheme designed to limit the number of people who can come into the occupation. And again, I will defer to Dr. Kuehn's expertise, but an 1,100- or 1,200-pound animal is probably not going to...probably not going to be harmed by a rubdown, if you will, by an unlicensed person. I want to believe that if LB299 were put into law that we would be looking at this from the least restrictive means; that we would look at issues like this and say, is it really necessary for the state to license, register, certify, or can the free market work? The free market is a great equalizer. It allows people to enter in. And in this day of Google and instant technology, instant communications, it's very easy to find out if somebody is really bad or if they're really good. I, you know, give them a five star on Google or give them a one star and say this was the worst thing ever. I find that when I'm looking for some new service, some new restaurant, some new...some new business that I have need of, the first place I go is the Internet. I Google it and I see what the reviews are. So I appreciate Senator Groene bringing this bill. I certainly will support it in whatever form it takes. But I, as well, question whether there is a need for any sort of additional registry. So thank you, Mr. President. [LB596 LB299]

PRESIDENT FOLEY: Thank you, Senator Ebke. Senator Wishart. [LB596]

SENATOR WISHART: Thank you, Mr. President. I rise in support of LB596. I'm still trying to figure out what AM621 does so I'll continue to listen to the debate on that. I rise as somebody who has had horses most of my life. I still continue to have horses and do a lot of long-distance trail riding. I have, in my life, looked for somebody who can provide this form of healthcare for my horse and it's been very tough to do. I also rise in support. This is actually an issue that came up several years ago when one of my women friends, who is a masseuse, was...and who loves horses and loves animals, was looking into this issue and found out it would be very hard for her to start a business providing horse massage. And so it's...it's very serendipitous that Senator Groene would introduce this bill, and again, I rise in full support. It's time that Nebraska ponies up on this issue. Thank you. [LB596]

PRESIDENT FOLEY: Thank you, Senator Wishart. Senator Crawford. [LB596]

SENATOR CRAWFORD: Thank you, Mr. President. And good morning, colleagues. I rise just to put a little context on this bill. We addressed this issue in the Health and Human Services Committee because there was a concern about restriction of access to this profession. And just to

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tag on to what Senator Ebke was saying, I believe that this is an example of how many of these issues can come to the committee. But even if it were to come to the committee through a LB299 process, there would still have to be a bill to decide what to do about that situation, if we felt the barriers were too restrictive. And it's my understanding, again I want to emphasize, that if LB596 does not pass then we leave in place the most restrictive license that we have now and one that is not being able to be achieved and one that I think there was wide agreement was not appropriate for this service. And so the effort with LB596 that Senator Groene engaged in was how to pull that down to the least restrictive option that still provided...that was appropriate for this profession. Now in our Occupational Standards Act, the least restrictive option there in terms of a government entity is the registration. So I believe, in terms of working with stakeholders, that move was to push this down to the least restrictive option in terms of the act, and that is the registration. Now we might then in the future talk about what that registration has achieved or if that is...continues to be necessary. This is an important step in this process to pull it down to this least restrictive option in the Occupational Act. And I believe that, you know, his engagement was with the stakeholders to try to determine what would be the least restrictive means. I don't necessarily agree with all of the pieces and parts of what's in that registry, but I do believe that it is a sincere effort to try to pull down the restrictions, yet provide an opportunity for people to identify and be identified as someone who provides these services in a way that is supportive of their profession. And I was struck by Karen Hough, who did come to our hearing and talked about her desire to engage in this profession and her willingness to meet certification standards that are appropriate. And I believe that's what Senator Groene is trying to do in this act. In all cases, we work on these efforts and need to continue to make sure that we're doing...that we're pushing as hard as we can push in each round and still looking to see what those restrictions are. And again, if LB596 does not pass, it's not really a question of protecting animal rights. If LB596 does not pass then what we're doing is leaving in a much more restrictive set of requirements, leaving in a licensure set of requirements that has not really worked in the state. And so the question is, how do we pull those back and what's the appropriate way of pulling them back? And I believe Senator Groene has worked with stakeholders to determine that level that makes sense at this time and try to support that and determine how we can support those folks who want to be in this profession with a much less restrictive regulation but still one that has some consumer protection. And I think that's another issue, as we go through all these discussions about licensure, is we're thinking about health and safety... [LB596 LB299]

PRESIDENT FOLEY: One minute. [LB596]

SENATOR CRAWFORD: Thank you, Mr. President...and as one of the ideas of harm, but you're also trying to understand and think about issues of consumer protection as well and how does someone know if they're dealing with someone who is reputable? And that's part of, I believe, the idea behind the registry. So I encourage your support of LB596, recognizing that this is our least restrictive option in terms of the Occupational Safety Act, and that we will probably have

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continued conversations in the future about what are the appropriate restrictions and requirements for professions like this. Thank you, Mr. President. [LB596]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Chambers, you're recognized. This is your third opportunity. [LB596]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I indicated before, I was glad that Senator Kuehn is here today. I think he's absolutely right in all the things that he said. What ought to have been done--and he wasn't here when we discussed it at first--is to simply strike "equine therapy" from the veterinary law...veterinarians law and leave it alone. Then anybody who wanted to do this can do it. There's no need for the state to be involved at all. If I want to groom a dog for somebody, I can do it. And I know how to trim toenails so that you don't cut too far, because they have living substance inside their toenails. What ought to be done is to let LB596 be the vehicle to remove a licensure requirement. Then anybody can do this who wants to do it. When the bill first came, I looked at it as something that was probably going to pass, and I saw problems with it and that's what caught my attention--the problems of doing away with licensure where it would be needed in other areas. So thinking that that was the only thing...this was the only way to get that taken care of, I was willing to work with Senator Groene to try to put this bill into a form that would not affect the licensure of others where a license is currently required and is needed. If LB596, not LB595, whatever it is, would simply strike all reference to "equine therapy" from the veterinarians bill, then there would be no state notice of this activity. And the more I listen and look at it, the more I'm convinced that's the direction the bill ought to go. I had said I would not speak much on the bill this morning and I'm not going to. But had I said the kind of things that Senator Kuehn has correctly pointed out, it would have been viewed by people who don't listen carefully, who have not read the bill, they would think it was a part of my attempt to torpedo and undermine what is being attempted. These people who currently want to engage in this activity don't want to have to get a license, go to school for it, whatever they have to do. Just get that out of the statute and just leave it as something where anybody who wants to do it can do it. The horse is never going to complain and say this was not well done. We have animal cruelty laws. People who own these horses would make sure that nobody is going to harm the animal. They have an interest in that not occurring. So I think what I'm going to look at is going the direction that Senator Kuehn suggested--simply remove all reference to this activity from the statute, no licensure, no educational requirement, nothing. There will not be an attempt by the state to get the state to put some kind of certification to make it seem that these people are somehow specially trained to do this. [LB596]

PRESIDENT FOLEY: One minute. [LB596]

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SENATOR CHAMBERS: And that's the approach that I would take. And on my closing, Mr. President, I'll have a few comments. Then I'm going to withdraw this bracket motion. [LB596]

PRESIDENT FOLEY: Senator, are you withdrawing at this point or do you...? Senator Chambers, I'm confused. Are we going to withdraw your motion now? Senator Chambers? [LB596]

SENATOR CHAMBERS: Do I have a closing or was that it? [LB596]

PRESIDENT FOLEY: You still have a closing, Senator Chambers. [LB596]

SENATOR CHAMBERS: I'll do it at that time... [LB596]

PRESIDENT FOLEY: Okay, very... [LB596]

SENATOR CHAMBERS: ...because somebody else may want to say something. [LB596]

PRESIDENT FOLEY: Very good. Thank you, Senator. Senator Groene. [LB596]

SENATOR GROENE: Thank you. Want to clarify some things. Folks out there probably don't understand that Senator Chambers and I are friends. We just happen to believe, in his opinion, to be from different planets. I appreciate his compliments earlier. Mean to kids to me means tough love, personal responsibility, and stand up and admit you're wrong. Grumpy to me means you're mature and a discerning adult. Gray-haired, as I read the Bible, in Proverbs says I have wisdom. So it depends on the words you hear and your definitions, and on my planet I take those as compliments. So thank you, Senator Chambers, my good friend. To Senator Kuehn, I wanted to make sure he didn't tell the public everything. And he's a friend and he supports the bill. The reason we have two vets can sign letters of recommendations...he forgot to tell you it was 2022. It's only three years. The reason we did that is because there's...to grandfather in those people who moved in from other states and areas who are doing it also for vets now under the guidance of veterinarians, because that's the present law, can be...join the registry. It's called a grandfather clause. And in fact, to be bluntly honest, the reason we did it is for Karen, the lady who brought it for me. She took her classes years ago and doesn't have the certificate in this institution and she was doing it. Yes, I got a big heart. It's for Karen. Why do we do a registry? Senator Crawford forgot to mention that she's the one that brought the idea to me. That is what the veterinarians agreed to. Senator Harr said we've had pari-mutuel racing and we were doing it before. No, we weren't. Prior to 2011 or '13, this whole Veterinarian Act was created that caused the problem. Prior to that, there were people massaging horses because it wasn't in statute. This

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was created by this Legislature as recently as, I believe, 2011 or '12, when the Veterinary Act was updated. Senator Kuehn, I hope when you sat around with your veterinary friends you told them about the existing statute, how many hours they have to take, the fact that nobody can have their horse massaged unless they, in the state of Nebraska presently, have a prescription from a veterinarian first. You got to load your horse up, take it to a vet. The vet says you need a massage, and then you take a prescription to the masseuse and the masseuse can do it. That's only if the masseuse had 150 credit hours. No, the registry has a purpose. They do have a purpose. Imagine somebody out there claiming they can...they're a masseuse, an equine massage practitioner. Masseuse people don't like that name, "masseuse," and I don't blame them. But imagine if they...I forgot where I was. But anyway, this bill...oh, on the registry, imagine somebody is out there claiming they can manipulate the spine, they can do physical therapy because they are an equine therapist. What if they're doing that? They should not be because we all agree those are professions that need more education and a license. Imagine if they're doing that without the registry. A veterinarian hears about it in an area. Where does he check? Where does he check now if we don't have that registry, if this person is registered? How does he make a complaint that this person is acting beyond their purvey (sic-purview) and what they can? Registries have a purpose. I would like to make it clear, too, Senator Kuehn at the end of the day... [LB596]

PRESIDENT FOLEY: One minute. [LB596]

SENATOR GROENE: ...has said he will support. Did you say one minute? [LB596]

PRESIDENT FOLEY: One minute. [LB596]

SENATOR GROENE: He would support LB596 because it's a lot better than the existing statutes. This is a "people bill." There are ladies, at least three in my area, that want to pursue this occupation. You only get so many hours and days on this earth. They don't need to wait any longer. There's no harm with this bill. It's not about the horses; it's about the people. I have a letter from the Benevolent...Horsemen's Benevolent Society. Why do they want this? Did you know a horse race can...a horse that races cannot even have an aspirin in their blood, they're disqualified? This is a holistic way for...and, Senator Harr, we still have horse racing in this state. I think it's going on right now in Grand Island. You said when we used to have. I know everything is about Omaha, but we do have it in this state. This is a good bill. You want to waste some more time, you go ahead. [LB596]

PRESIDENT FOLEY: Time, Senator. Thank you, Senator Groene. Senator Kolowski. [LB596]

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SENATOR KOLOWSKI: Good morning. Thank you, Mr. Chairman. I would yield my time to Senator Chambers, please. Thank you. [LB596]

PRESIDENT FOLEY: Thank you, Senator Kolowski. Senator Chambers, five minutes. [LB596]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, we are in the posterior portions of the session. I want to see bills that have value to the citizens enacted into law. I want to see those bills that are hurtful killed, and I'll continue to try to do that. This bill doesn't make me that much difference. What raised my ire, and it always will, when Senator Groene and Senator Lowe combined to suggest that children should not have legal representation, yet that's the first thing they would want if they had a problem. They're shortsighted, they're selfish, and they're disregarding of children. And we have other bills that relate to the welfare of children, poor people, those who have psychological, mental, and physical disabilities, and this is the cruelest place to bring those kind of matters. These people from the rural areas don't have any sensitivity, and now I think I know why. They're used to seeing animals abused, slaughtered, put in little wooden boxes where they spend their entire life; no time, no opportunity to be the way animals should be. And they get hardened to it. They cannot allow themselves to realize that these things are hurtful to animals, that they are cruel. But they don't know how to draw the line. Children begin to fit into that same category and they are treated abusively. And a child is being abused not only when somebody beats the child with a piece of wood or a leather strap, or slaps the child, or deprives the child of food. There is a proper relationship between an adult who calls himself or herself a parent, which may not even be visible to the naked eye. Just like if somebody would have looked at Stephen Hawking, people from the rural areas would say, why even keep him alive? He can't change his clothes. He can't go to the bathroom. He can't brush his teeth. Of what earthly value is he? None. If we had an animal like that, we would take it out and mercifully shoot it. I'm going to tell you one of the things that gave me a feeling of karma. Several years ago, a farmer was in his barnyard and a bull pinned him against a door and killed him. When they kill the bull, human beings shout, "Ole!" This day the bulls cried, "Ole!" Rural people are some cruel people--cruel! They're for the death penalty; they're for letting teachers use violence against children in school. But yet they're the most sensitive, cowardly people of all because they won't stand up on their own and do what a man who's a man is supposed to do whenever they're dealing with somebody who is weak, a woman brainwashed by the preacher who might be abusing children, little girls who are taught not to talk to anybody about these things when your daddy touches you in various places. That's what they are. And it's why a lot of rural children want to get away as soon as they can. And a lot of their girls look for love in all the wrong places... [LB596]

PRESIDENT FOLEY: One minute. [LB596]

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SENATOR CHAMBERS: ...because anything anyplace is better than that; anybody is better than the parents at the home. And I'm going to watch these rural people a lot more carefully, look at all of the legislation they bring, and when it merits a comment, I'm going to give it. Then they act like a woman saying the word "vagina" is somehow vulgar. They don't know a woman has a vagina. Maybe that's why some of them are so anti-gay rights. Maybe they don't know how to deal with a woman and the ones they deal with don't have a vagina. And those are the kind of things that need to be talked about on this floor because those are the attitudes that govern in this society. We should address all of them and deal with them head-on. Those cowards, the bully in Lincoln didn't take out after me, neither did Chip Maxwell. They picked on a woman. [LB596]

PRESIDENT FOLEY: Time, Senator. [LB596]

SENATOR CHAMBERS: Thank you, Mr. President. [LB596]

PRESIDENT FOLEY: Senator Chambers, you're recognized to close on the motion. [LB596]

SENATOR CHAMBERS: Thank you. And, Mr. President, the reason I went on and spoke, when someone yields me time, I don't want to show that I'm ungrateful. But I will have the rest of the day, and if this is one of our long days, to talk about other things that I think, in a lot of instances, are more important than the legislation before us. I want to talk about those things that go beyond a particular bill or this session of the Legislature but affect people in their daily lives, all of the time, wherever they are. And the only way those matters can be brought before the public is for us to do it here because there are opportunities for the public to hear it come out of our mouth. When you read these stories in the paper, they don't cover everything. They have to dumb it down to the people who still read newspapers. Fortunately, there are people who watch and they get a fuller story, they get a better picture of who is doing what, who is saying what. And I'm proud of all of the things that Senator Blood said and the fact that she would say them. And some of these people whose trousers are too tight, as the British would say, need to loosen up and listen and learn something. When they talk about the Victorian period, that's when there were some of the most loose sexual activities that you could find. The Puritans, hypocritical, whenever you find these dyed-in-the-wool-hat Christians and other religions, then you can bet that they're doing something inappropriate with women and with children and they hide it behind a religious holy facade. Senator Groene was kidding when he said he and I are friends. Now, I don't view him as an enemy, but I don't go to his house. He doesn't come to mine. We don't socialize, I don't even know what his favorite food is. Friends have shared experiences. We don't share anything except this Chamber and it takes far more than that for me to attach the term "friend" to somebody. Now, in the political context where every politician refers to my friend so-and-so, and usually it's an enemy to whom they attach that term, maybe advisedly used in that fashion, everybody can be my friend, nobody is my enemy. But we're grown people. We

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understand things. And I had said that I will pull this motion and that's exactly what I intend to do. Mr. President, I withdraw that motion. [LB596]

PRESIDENT FOLEY: Thank you, Senator Chambers. The motion is withdrawn. Mr. Clerk. [LB596]

CLERK: Mr. President, Senator Groene, I have AM1500 with a note you wish to withdraw that, Senator. Senator... [LB596]

PRESIDENT FOLEY: AM... [LB596]

CLERK: Senator... [LB596]

PRESIDENT FOLEY: AM1500 is withdrawn. [LB596]

CLERK: Excuse me, Mr. President. Senator Kuehn, FA112 with a similar note to withdraw. Mr. President, Senator Groene would move to amend with AM2315. (Legislative Journal page 921.) [LB596]

PRESIDENT FOLEY: Senator Groene, you're recognized to open on AM2315. [LB596]

SENATOR GROENE: Thank you, Mr. President. If I can find my paperwork...sometimes I read too much. AM2315, basically a white copy of the amendment replacing the committee amendment, AM621, which would...will then eventually replace the original language of the bill. It addresses the concerns raised by Senator Chambers and Senator Harr when we first discussed this bill. It addresses the concerns of the veterinarians association and other industries that were involved in horses. And it...by replacing the amendment, replacing the original language of the bill, it got in. What snuck by us in bill writing was the requirement, that licensure under the act, removes that completely, should have never been there. And it also incorporates the committee amendment, AM621, and Senator Kuehn's FA112, which he just withdrew. This bill amendment accomplishes the following: requires a person waiting to practice equine...wanting to practice equine massage by...be credentialed, a registry...which is in the registry; defines what equine message practice means and what a practitioner is--and I think that's very important in the registry to make sure there's no confusion with physical therapy and chiropractic services; create the equine message practitioner registry allowing persons who are registered to practice equine massage; clarifies that the Veterinary Medicine and Surgery Act does not require that an equine massage practitioner has to operate under the supervision of a licensed veterinarian or that the act prohibits an equine message practitioner, as defined in Section 3, from practicing equine

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massage. It takes a holistic approach to muscle manipulation by...on equine out of veterinary law and makes it...and keeps it stronger for Veterinary Act that if you manipulate the spine or structure of an animal, you need to be licensed. In order to register, a person must have a degree or certificate in equine massage from a school approved by...by a school that is licensed by the federal government. It doesn't have to be approved by the DHHS. It has to have a degree or certificate in equine massage from a school accredited by the U.S. Department of Education, I guess is what I was trying to say, until January 1, 2022. Two letters of recommendation from the licensed veterinarian, on the floor it had been made a big issue; it is not an issue. Those individuals who have been doing this and have learned the trade from veterinarians by practicing it and have moved to our state and have done it in the past, we're going to grandfather them in, and it's only until 2022. I don't think that's a joke. I think that helps at least one individual in the state take part in economic activity. It could help feed their family and pay the rent. The person must also pay a filing fee. There should be...there's no A bill because the filing fee shall cover the changes to the registry. A listing in the registry is good for five years. A person can only be refused renewal or removed from the registry by violating the Livestock Animal Welfare Act, harming or severely neglecting livestock including equines. That's another reason the registry is not a bad idea. There are, as Senator Chambers says, people who abuse animals. If you don't have them on the registry, how do you stop their activity? And Section 38-178 of the credentials act, for example, exceeds scope of the practice, convictions of crime. This will not stop somebody from practicing if they receive a felony; it only would take their license away if what they are doing harms animals or is related to their activity--selling drugs, using drugs on animals, unregistered drugs, things like that, that is directly related. A DWI offense or felonies, third or fourth DWIs will not affect their ability to do so. The amendment fixes an injustice for some individuals who want to practice economic activity in the state. It has nothing to do with the horses. By the way, the...as I said, was trying to finish up my last time, the Benevolent...Horsemen's Benevolent society that runs pari-mutuel racings are for this, big time. They can't give a horse a drug, any type of drug, and they're disqualified. Those horses, which people make a living from their activity, do have muscle situations, too, helps problems where a masseuse would be vastly welcomed. I would guarantee you that in Grand Island, Nebraska, come back in a couple of years, there will be a couple horse...equine masseuse...massage practitioners in that area because there's demand around the pari-mutuel racing there. This is a simple bill. I disagree that we need to remove the registry. It's a simple process. It gives me the ability, as a citizen, when I move to the state or have a horse, to look on the registry and say, oh, there's an equine massage practitioner just down the road. I can give them a call. I know they have gone through some process that they're qualified and not some whacko who decides they want to do things with horses. The registry serves a purpose. I think it's a good idea. I'm glad Senator Crawford came to me with the idea. I'm glad that the veterinarian association agreed to that process. It is simple. It is a simple process. It's not very restrictive. And if I was in a practice I would like to have a certificate on my wall or with me that proves I know what I'm doing. The registry is not excessive, not...doesn't demand high qualifications or hours of classwork, but it

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proves you went through the effort, you love what you're doing, you want to be part of an activity, and you want to charge a small fee to do it. So I would appreciate approval of AM2315 amended into AM621, Health and Human Services Committee, and then let's amend it into LB596 and let's go. Maybe we'll get home at 11:30 instead of midnight tonight, because this isn't worth fighting over, folks. And I...this doesn't affect me. If you were to kill this, I could live with it. I've got bigger fish to fry. I just like to, every year I come down here, to do one little bill. I did it with archery a year ago. Helps the common person--that's what we do in rural Nebraska on that planet. We look after each other. We don't run to government and have government look after our neighbor. We do it. Thank you. [LB596]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Krist. [LB596]

SENATOR KRIST: Thank you, Mr. President; good morning, colleagues; good morning, Nebraska. Like to ask Senator Groene a couple of questions if I could, please. [LB596]

PRESIDENT FOLEY: Senator Groene, would you yield, please? [LB596]

SENATOR GROENE: Yes. [LB596]

SENATOR KRIST: Just to play devil's advocate, what if I moved here from Kentucky and decided to start my own business with the massage of horses, and now we've determined that it's not high performance, it's pretty much any horse, and I didn't register? What would be the consequence? [LB596]

SENATOR GROENE: Like all laws, until you got caught, you could probably do it. A veterinarian in the area might find out that you're doing it and check the registry and probably would come over to you and say, because they're all in the same industry, and say, did you know in the state of Nebraska you need to be registered? You can go to our HHS Department, simple as that. By the way, the high performance, when I said earlier, we...this came to us toward the end of bill dropping time and my staff, I told them to find what some other states are doing, and we just cut and pasted so we would get it through the committee and on the agenda. [LB596]

SENATOR KRIST: Okay, that's...I get that. And I'm all in favor of that. What if when my veterinarian comes to me, I said I don't need to register. What's the consequence? What is the enforcement mechanism for the registry? [LB596]

SENATOR GROENE: I haven't looked at what the enforcement mechanism in the registry. We're adding this to a whole list of other activities that need to be registered. My assumption is, we'll

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look and whatever the consequences are it would also fall under what all the rest of them are.
Thank you. [LB596]

SENATOR KRIST: Okay. Thank you, Senator Groene, for answering my questions. That's all the questions I have for you. Folks, I don't understand. I guess I'm...when we talk about the kind of bills that Senator Ebke has brought before us and lack of government oversight and lack of bureaucracy and local control and then we turn around and say here's another registry that you have to register for if you're going to practice a craft that is not regulated by the veterinarians--and, quite frankly, I don't know where the enforcement mechanism would be--to me, and I'm not necessarily one of those guys that uses these kind of phrases willy-nilly--that's a technical term--but to fall off the cliff on this one, or go to the edge of the cliff, I'm not willing to do that. It seems to me like we have a feel-good process in here that is maybe a compromise, but I don't think it's necessary. I don't know that I will vote for AM2315. I have no problem with LB596, with the committee amendment, I think. I think I'm just going to listen again to the discussion. I obviously don't have a pony in this race, no pun intended. But I'll stand by for future discussion. Thank you, Mr. President. [LB596]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: Thank you, Senator Krist and Senator Groene. Senator Chambers, you're recognized. [LB596]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I listened to Senator Groene on his amendment. Now I have a question of Senator Crawford. [LB596]

SPEAKER SCHEER: Senator Crawford, would you please yield? [LB596]

SENATOR CRAWFORD: Yes. [LB596]

SENATOR CHAMBERS: Senator Crawford, Senator Krist touched on what occurred to me after I listened to Senator Groene. He said it would be nice to have a certificate on his wall. Who exercises oversight over these equine whatever they are? [LB596]

SENATOR CRAWFORD: So that would be the Board of Veterinary Medicine and Surgery is the board that oversees it. The Department of Health and Human Services Division of Public Health would be the enforcer. [LB596]

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SENATOR CHAMBERS: And if I were to put a certificate on my wall that I lettered and said I engage in equine massage, what would happen to me? Am I in violation of the law and would be sanctioned for practicing without a registration? [LB596]

SENATOR CRAWFORD: So if you were actually engaged in the practice and charging money for it, that's when you would...they would say you need to be in the registry, because in the state of Nebraska in order to engage in this practice, you need to be registered. [LB596]

SENATOR CHAMBERS: And if I didn't register but kept doing it, what would happen to me, if anything? [LB596]

SENATOR CRAWFORD: Then you would get a cease and desist order informing you of how to register. [LB596]

SENATOR CHAMBERS: And then if I just tore that up and threw it away and kept doing what I'm doing, and I neither ceased nor desisted, then what happens? [LB596]

SENATOR CRAWFORD: Well, then I...that's a... [LB596]

SENATOR CHAMBERS: Go ahead. [LB596]

SENATOR CRAWFORD: If you fail to obey a cease and desist order, then it is actually the case that you could...a failure to obey an order to cease and desist is a Class III felony. So there is an actual punishment if someone is not obeying an order to cease and desist. [LB596]

SENATOR CHAMBERS: Now we're getting down into the woods. A Class III felony, if I put a certificate on my wall, I'm not registered and I refuse to take it down... [LB596]

SENATOR CRAWFORD: It's not the...okay... [LB596]

SENATOR CHAMBERS: Yeah, the failure to cease and desist is a Class III felony and that's the punishment for everything on that list, is that correct, where a registry is involved? [LB596]

SENATOR CRAWFORD: It is the case that the...I'm just reading off of what was given to the person who came to testify in our hearing. In that letter that she received it talks about the fact that if you do not...if you don't obey a crease and desist order it's a Class III felony. I don't think

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the sign on your wall is the issue. The issue is if you're actually engaged in the practice and collecting money for it. [LB596]

SENATOR CHAMBERS: But that wouldn't be the case now because there's no licensure requirement. [LB596]

SENATOR CRAWFORD: No. [LB596]

SENATOR CHAMBERS: If this bill is enacted, and I will do some research, who issues the cease and desist order? Is it the Attorney General's Office or somebody from HHS? [LB596]

SENATOR CRAWFORD: The order comes from DHHS. And again, if the bill does not pass, that's why we...they would be receiving this because there's a very strict licensure scheme that's in place right now. And so if the bill does not pass, it's the case that you would be...all these women that want to engage in this practice would get these cease and desist orders and would be asked to step up to a much stricter licensure. This provides an opportunity for them to have a much less restrictive process that keeps a record of who is engaging in the practice but does not require the education and licensure that's currently required. [LB596]

SPEAKER SCHEER: One minute. [LB596]

SENATOR CHAMBERS: But the operating without being certified is not, in and of itself, a crime, isn't that true? [LB596]

SENATOR CRAWFORD: Currently it would be a crime to continue to practice horse massage without the... [LB596]

SENATOR CHAMBERS: No, I meant to get...to get...now... [LB596]

CRAWFORD: ...without... [LB596]

SENATOR CHAMBERS: ...because now you would have to get a prosecutor to say I am going to charge this person in court with a Class III felony for rubbing horses. And I don't know what county attorney would do that. But now we're away from that. All it is, is a registry. From what I am gathering from you, anybody who has to be on this registry, who is not on the registry but functioning in this capacity, is...how is that person to be compelled to stop doing what he or she is doing? Or hasn't anybody looked that far into it? [LB596]

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SENATOR CRAWFORD: Again, it is the cease and desist order. Your question about how strongly those are enforced is a fair question, but as the woman who came forward... [LB596]

SPEAKER SCHEER: Time, Senators. Time, Senator. [LB596]

SENATOR CRAWFORD: Thank you. [LB596]

SPEAKER SCHEER: Thank you, Senator Chambers and Senator Crawford. Senator Erdman, you are recognized. [LB596]

SENATOR ERDMAN: Thank you, Mr. Speaker, and good morning. In the hearing when the young lady came and testified about what she was doing, I remember she said that she was doing the massage and she thought perhaps there is a license or maybe I should be licensed. So she sent a letter to DHHS and asked if she needed a license. And that is how they discovered that she was doing horse massage. Then she received a notice from DHHS said she must cease and desist. And Senator Krist, I don't know if Senator Krist is here, but she had said up to a fine of \$25,000 if she didn't cease and desist. So then she contacted Senator Groene and she said, it's come to my attention that I need a license to do this. And consequently there was not an easy method for her to get a license so Senator Groene picked it up and introduced a bill. So, Senator Krist, there is a penalty. Senator Chambers, there is a penalty for those who practice horse massage without being registered or having a license. So we do have those provisions in place and DHHS are the ones that regulate that. Just wanted to share that for your information. Thank you. [LB596]

SPEAKER SCHEER: Thank you, Senator Erdman. Senator Chambers, you are recognized. [LB596]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'll pursue the question that I have not on the floor because maybe it hadn't come up, but there's no way that I would want somebody charged with a Class III felony for rubbing these horses and not being on a registry, even if they charge for it. It's becoming something more than what Senator Groene talked about. He likes to, aw, shucks, I'm just trying to help common folks do such and such, and it doesn't mean anything to me, yet all of them are from his district. But the children in his district don't count. And children outside of his district don't count. I discount a lot of what he says. As Shakespeare said, "...sound and fury, / Signifying nothing." I'm not going to tie this bill up, but I want to get some things into the record. And I will listen to Senator Kuehn and give serious consideration to what he says more than I would with Senator Groene because I know something about the law, and I know how little he knows about the law and he thinks all you have to do is pick up a law book and read it and you become a lawyer. That's not even the way you do it in law school. They have a law library. You are assigned cases to read and research.

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And that's where you get all of these ignorant people saying, well, I read this in the constitution. I don't know that you can find a single thing in the constitution and see that the words that are there apply as an ordinary person would think they apply. The constitution is what the Supreme Court says it is. And the Supreme Court, when it rules on a principle involving a specific provision of the constitution--for example, the supremacy clause where the federal law, which comprises the constitution, statutes enacted pursuant to it, and treaties of which the United States is a part--and an issue comes up, the court doesn't read where it says that federal law is supreme, any state constitution, or whatever, to the contrary notwithstanding, therefore, you lose; therefore, you win. There is a briefing period, there is argument, and you find out it's not as simple as reading words in the constitution. That is what simpleminded people do. And that's why you have to have a law license to represent somebody. Somebody like Senator Groene couldn't represent anybody in court. He doesn't know enough. And he doesn't know enough to realize he doesn't know anything. When somebody doesn't know, and he doesn't know that he doesn't know, is helpless, worthless, and cannot be helped. But now he's the expert on everything here because he says it loud and nobody challenges him--well, by God, I know what they need out in the rural area--and that is supposed to be the end of the issue. Well, rural people to me are human beings. Children in the rural areas are children. They need to be protected from ignorant people. Sometimes they are well meaning when they take out a razor strap and beat a child with it. But that is a crime in this state. Senator Groene wouldn't think it's a crime if a parent did it because, by God, parents know and that's the way it's done out in the rural areas. We beat horses, why not beat them kids? If you want a horse to stop doing this, beat the you-know-what out of him. Same with a kid--you start beating him early enough, he'll do what you want him to do, by God. What he might do is find out where you keep those guns and when you're not looking he'll get one... [LB596]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: One minute. [LB596]

SENATOR CHAMBERS: ...and do something to you, which is starting to happen in this country. It's difficult when you have to listen to this kind of stuff when we're enacting laws. I'm not asking Senator Groene what will happen on the registry because he doesn't know. He made it clear he doesn't know. He didn't look at what happens and what the significance of this registry is. I will look into it and decide whether I'll put it into the record or not. But this is how bad things happen. And those people who say we don't need additional federal or state or local regulation will ask for it without even knowing what that regulation does, what it means, or if somebody violates it. I want to know and I will do the research for myself, because you all are going to pass this. And that's all that I will say on this bill. But as the day wears on... [LB596]

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PRESIDENT FOLEY: Time, Senator. [LB596]

SENATOR CHAMBERS: ...I'm going to have a lot to say about a lot of other things that are not formally before us based on the bill. Thank you, Mr. President. [LB596]

PRESIDENT FOLEY: Thank you, Senator Chambers. (Visitors introduced.) Continuing discussion, Senator Ebke. [LB596]

SENATOR EBKE: Thank you, Mr. President. And I'm just going to get on my hobbyhorse for just a couple more minutes here. I think that it's important for us to remember the value of the free market and that there are ways to regulate that don't require government involvement and penalties. Okay? So we all know about the Good Housekeeping Seal of approval. We all know about AAA certification. We all know about the Better Business Bureau. All of these things are private organizations that certify different sorts of businesses, different sorts of operations. I'm not sure that AM2315 is actually going to get us to a point of less government or if we want to open things up a little bit more and just go back to the largely the green copy of the bill with AM621. The last thing I want to do though is to kill this bill. I think it's a good bill. I think it's well intentioned. And so what I would say is this. If we adopt AM2315, I will be looking at ways to remove it or to lessen its impact on Select File. So I think it's a good bill. I support LB596. And with that, thank you, Mr. President. [LB596]

PRESIDENT FOLEY: Thank you, Senator Ebke. Senator Harr. [LB596]

SENATOR HARR: Thank you, Mr. President. I want to thank Senator Groene for making some changes earlier to the bill, but then I see there are some additional amendments. And I was wondering if Senator Groene would yield to a question. [LB596]

PRESIDENT FOLEY: Senator Groene, would you yield, please? [LB596]

SENATOR GROENE: Yes. [LB596]

SENATOR HARR: Thank you, Senator Groene. I see you switched from "horses" to "equine." And equine is more massive than horses. Is there a reason why you did that? [LB596]

SENATOR GROENE: The recommendation of Senator Kuehn and the veterinarian association. [LB596]

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SENATOR HARR: Okay. And what other members of the equine family are there than horses? [LB596]

SENATOR GROENE: You must have missed my opening. There's zebra; there's donkeys; there's asses. I guess there's...covers it, most of them. [LB596]

SENATOR HARR: Okay. Thank you. [LB596]

SENATOR GROENE: Mules, excuse me, (inaudible). [LB596]

SENATOR HARR: Thank you. Would Senator Kuehn yield to a question? [LB596]

PRESIDENT FOLEY: Senator Kuehn, would you yield, please? [LB596]

SENATOR KUEHN: Yes, I will. [LB596]

SENATOR HARR: Thank you. Is there a reason to add donkeys and zebras to the list that is not overseen for massages? [LB596]

SENATOR KUEHN: Well, equine is the all-encompassing term, because they would include...there are performance donkeys, performance mules that clients may wish to have this service. I don't know. Zebras, they are kind of cantankerous. [LB596]

SENATOR HARR: Okay. Well, thank you. Folks, here we are. We haven't even passed a bill and we're already expanding it, right? We originally said horses. And think about when this bill was originally introduced. This had to do with horse racing and the regulation of horse racing. Horse racing has largely gone away in the state of Nebraska. It's little bits here and there, but not nearly what it used to be in the '80s and before that. And so we're saying we don't need it for the horses. Well, now we're adding donkeys, mules, asses, zebras, whatever you want to call them. But we're expanding it further and further and further. We're going away from the original intent of the bill which was to say we like horses so, therefore, we don't think they need to be regulated. We're doing this for the horses, but I have yet to speak to a horse, other than Mr. Ed, who has told me they want this bill. Right? So I'm not really sure the purpose of this bill. Senator Groene says he is doing it for the little people. Maybe he is, but they are not the ones who are affected by this. It's the horses. And I have yet to hear any testimony about a horse that has been deprived and that they're needing this, that there is a great need out there for it. I'll support it, because I guess it's harmless, but I really don't see a need for this and why we're wasting time on this. And just remember, folks, six hours here, another three hours and another hour on Final. Think about if

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this is that important. We got a lot of bills to pass and we got a long ways to go and a short time to get there. Are we going to get done what we need to get done? Thank you. [LB596]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Baker. [LB596]

SENATOR BAKER: Question. [LB596]

PRESIDENT FOLEY: Question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor of ceasing debate vote aye; those opposed vote nay. Record, please. [LB596]

CLERK: 26 ayes, 0 nays to cease debate. [LB596]

PRESIDENT FOLEY: Debate does cease. Senator Groene, you're recognized to close on AM2315. [LB596]

SENATOR GROENE: Thank you, Mr. President. Let's adopt it and go on. If Senator...if somebody wants...hey, I'm for less government, but I also keep my word. And we agreed with the veterinarians association and other entities and HHS. HHS sat in my office and they helped with how the registry should be addressed. So I have kept my word with them on the registry. If you want to get rid of it, fine. I just want these individuals to take part. Spring season is coming. The summer rodeo season is coming. Let's create some economic activity on the livestock end of our great Nebraska economy. So I would appreciate a green vote on AM2315. [LB596]

PRESIDENT FOLEY: Thank you, Senator Groene. The question before the body is the adoption of AM2315. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB596]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Groene's amendment. [LB596]

PRESIDENT FOLEY: AM2315 is adopted. Proceeding to additional debate on the bill, Senator Wayne. [LB596]

SENATOR WAYNE: I haven't spoken a lot on this bill. I think I haven't spoken at all. But the amendment concerns me when we're creating a felony...or it's a felony if you do it. My issue with this is pretty simple. You can take a person like me...I'm going to say 250 pounds, because kids

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are up there, and I want you to keep striving to lose weight. I can jump on a horse. I can run all over the place. I can pretty much be pretty hard as I want on the horse, but I can't get off and massage it for money. It just makes no sense to me. That is why I'm going to be against this bill. Furthermore, it just makes...I like the concept, but that amendment adding a registry just makes no sense to me. So I am moving off of this bill to a no. And I will yield the rest of my time to Senator Chambers if he would like it. [LB596]

PRESIDENT FOLEY: Thank you, Senator Wayne. Senator Chambers, just under four minutes. [LB596]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, the more we talk, the broader the reach of this bill. I'm not going to try to hold it up here. But on Select File, I'm going to bring an amendment that would simply remove all requirements from anybody who wants to rub these horses, and they can do it for money if they choose to and there's no registry and no Class III felony hanging over your head. See, they weren't talking about that, a Class III felony, with all the work we've been doing on sentencing, modernizing, humanizing, and bringing some sense into sentencing laws. And now this thing which was supposed to just help three old..well, three women. The reason I was going to say that: because the age had been mentioned. I'm an old man; I'm probably older than all three of them put together. So I can use the word "old" like an eagle was giving a commercial, and the eagle said if you don't do such and such, you're a birdbrain. Then the eagle said you can't say that, but I can, because the eagle is a bird. I'm old. I'm older than most of the people on the face of this earth. Eighty years old is more than most of the people on this earth. I apply the term "old" to myself as a descriptor; but I do not apply to myself all those infirmities and other things that are supposed to attend somebody who has been on the earth as long as I have been here. I am not going to agree to a law when any aspect of its violation is a Class III felony. So I'm going to offer an amendment on Select File and we just do away with licensure and we do that by striking this term from that veterinarian law. Then we don't have a registry and we don't have a definition in the statute so that these people who do this can say this is what you have to do to get a certificate, and if you don't have the certificate, you cannot engage in this for money. That doesn't make sense. That is what my amendment is going to do. If they have to take a cloture vote today, I'll vote against cloture. I will not vote for the bill. I will not fight it on General File. [LB596]

PRESIDENT FOLEY: One minute. [LB596]

SENATOR CHAMBERS: But if it stays in the form on Select File that it is right now, then I'll fight it tooth and nail on Select File and on Final Reading. I'm making it as simple as those people that Senator Groene says he is trying to help would want it--no licensure required, no

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mandatory schooling, none of that. And that's all I'll say at this point. Thank you, Mr. President. [LB596]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Schumacher. [LB596]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I really haven't been involved in the horse massage debate. And the only thing that got my attention is when you talk about any of this resulting in a Class IV or a Class III felony. There should be no path whatsoever for somebody to go from horse massage or "mismassage" into a Class III felony. That is heavy-duty stuff. And I think probably that path is unintentional. Would Senator Groene yield to a question? [LB596]

PRESIDENT FOLEY: Senator Groene, would you yield, please? [LB596]

SENATOR SCHUMACHER: Senator Groene, assuming this bill proceeds to Select File, would you be agreeable to an amendment on Select File to make this...a violation of this, for this particular area, not for brain surgeons or anything, just horse massage, to be a Class IV misdemeanor? [LB596]

SENATOR GROENE: I'm willing to take it out of the registry. I'm just trying to honor my agreement with the veterinarians and others to put it in the registry. Right now as it exists, the reason we do not have any horse...equine massage practitioners is because of the Class III felony. Right now under present law, if they would do it without a license, they...Karen Hough got a letter from HHS said you could have four years' imprisonment, up to \$25,000 fine if they didn't cease and desist. [LB596]

SENATOR SCHUMACHER: Okay, okay. [LB596]

SENATOR GROENE: Present...where they are right now, they are under that. [LB596]

SENATOR SCHUMACHER: Okay. [LB596]

SENATOR GROENE: And I would be...gladly take them out. I'd work with anybody. [LB596]

SENATOR SCHUMACHER: Okay. Senator Groene, so that we have an understanding then, either they're taken out of the registry completely, and what Senator Chambers is suggesting, that

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we not even regulate this area, or the alternative that the biggest penalty you can get here is a Class IV misdemeanor. Is it... [LB596]

SENATOR GROENE: Yes. But right now by putting them in the registry, everybody from nurses to brain surgeons, everyone... [LB596]

SENATOR SCHUMACHER: Right, but for this one, we can write whatever we want. [LB596]

SENATOR GROENE: We can take it out or put in an amendment that they're on the registry. I will work both you and Senator Chambers. I want these ladies... [LB596]

SENATOR SCHUMACHER: To a Class IV misdemeanor. [LB596]

SENATOR GROENE: Or take them completely out of the registry. [LB596]

SENATOR SCHUMACHER: Okay. Thank you. I have nothing further. [LB596]

PRESIDENT FOLEY: Thank you, Senators Schumacher and Groene. Senator Riepe, you are recognized to close on the Health Committee amendment. [LB596]

SENATOR RIEPE: Thank you, Mr. President and colleagues. My closing would be, is if you voted for AM2315, then you should vote green for AM621. Thank you, Mr. President. [LB596]

PRESIDENT FOLEY: Thanks, Senator Riepe. Members, you heard the debate on AM621. The question before the body is the adoption of the committee amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB596]

CLERK: 35 ayes, 0 nays on adoption of committee amendments. [LB596]

PRESIDENT FOLEY: The committee amendments are adopted. Continuing discussion on the bill, Senator Smith. He waives the opportunity. Senator Groene, you're recognized to close on the advance of the bill. [LB596]

SENATOR GROENE: Thank you, Mr. President. Let's pass it to Select. We'll work on it. I am glad we're getting a fever in this body for less government, less regulation. Senator Ebke started it all with her LB299. I'm willing to roll with it. We'll...Senator Chambers and the one man I am

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going to really miss with term limits, Senator Schumacher, we'll work on an amendment--thank you--for Select File. [LB596 LB299]

PRESIDENT FOLEY: Thank you, Senator Groene. Members, the question before the body is the advance of LB596 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please. [LB596]

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of the bill. [LB596]

PRESIDENT FOLEY: LB596 does advance. (Visitors introduced.) Before proceeding, items for the record, please. [LB596]

CLERK: Mr. President, Enrollment and Review reports LB903, LB745, LB1098 and LB901 to Select File, some of which have Enrollment and Review amendments attached. Mr. President, announcements: the Revenue Committee will meet in Executive Session now, and then Retirement Systems Committee will meet in Exec Session at 2:30, both in Room 2022. That is all that I had, Mr. President. (Legislative Journal pages 1028-1029.) [LB903 LB745 LB1098 LB901]

PRESIDENT FOLEY: Thank you, Mr. Clerk. We will proceed to General File, 2018 committee priority bills. Mr. Clerk.

CLERK: Mr. President, LB873 is a bill by the Urban Affairs Committee, it's signed by its members. (Read title.) Introduced on January 5 of this year; referred to the Urban Affairs Committee for public hearing. The bill was advanced to General File. There are committee amendments, Mr. President. (AM2065, Legislative Journal page 807.) [LB873]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Wayne, you are recognized to open on LB873. [LB873]

SENATOR WAYNE: Thank you. Thank you, Mr. President and members of the Legislature. I know I am the one keeping you from lunch, so I will try to keep this short and have a great discussion. LB873 is one of Urban Affairs Committee priorities this year and the committee amendment contains a number of bills dealing with municipalities, and some that are technical in nature and some that are substantive, and we'll talk about that in the amendment. The green copy of LB873 is an omnibus cleanup bill from the statutes of Chapter 19 which governs some but not all classes of municipalities. In 2014, Urban Affairs Committee began a multi-year effort to update and modernize the statutes governing various classes of municipalities. The Legislature

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has previously passed similar cleanup bills for cities of the first class in Chapter 16, and cities of the second class and villages in Chapter 17. LB873 amends more than 200 separate sections and the type of changes contained in all the bills are grouped into 13 categories. For example, it changes "governing body" to "city council," "second class city" to "city of the second class," updating provisions related to the commission plan, city manager. While nearly all cities have a mayor-council form of government, ten cities have city manager forms of government; one city has a commission form of government. Much of the language in the commission plan and the city manager statutes have not been amended since the statutes were recodified in 1943, and some date back to the 1800s. Clarifying references to legal newspapers is another section. Some statutes require legal newspapers; others require just newspapers. So we have cleaned up that area. Some of them also say publish for X in a legal paper or in the general city circulation. There is a statute defining legal newspaper in the statute, and so we cleaned up those provisions. In addition to those key changes, LB873 makes a large number of technical changes including things like alphabetizing terms, correcting subject-verb agreement, updating references to business improvement and legal...and districts and off-street parking; correcting references to city officials; correcting gender references; eliminating run-on sentences; and those other things that attorneys just look at because it bothers us. LB873 received no opposition at the hearing and was advanced by the Urban Affairs Committee 6-0, with one member absent. I would ask for your green vote on LB873 to Select File. Thank you, Mr. President. [LB873]

PRESIDENT FOLEY: Thank you, Senator Wayne. (Visitors introduced.) As the Clerk indicated, there are amendments from the Urban Affairs Committee. Senator Wayne, would you like to open on those committee amendments for us? [LB873]

SENATOR WAYNE: Yes. Thank you, Mr. President. The committee amendment, AM2065, is a white copy amendment that replaces the bill. The amendment...and I want people to listen because it's a long committee bill, but I want to go through and tell you exactly what it does. The amendment incorporates provisions from LB873, as well as six other bills heard by the Urban Affairs Committee that deal with municipalities. Members should have received a one-pager handout that summarizes the bills incorporated in the committee amendment. In addition, each bill in the committee amendment was advanced separately by the committee so members can view them, summary information for those bills on the committee statements in their respective bills. Each of the bills contained in the amendment was advanced separately by the Urban Affairs Committee 7-0. Like the underlying bill, many of the bills included in AM2065 are highly technical in nature. LB765 was introduced by the Urban Affairs Committee. It cleans up a number of sections in Chapter 16 governing first class to clarify those sections of first-class cities. LB748 was introduced by Senator Hansen--so if you have questions about LB748, please ask Senator Hansen, but I also can answer any clarifying questions--which represents multiple portions and population thresholds providing such thresholds are met based on either of the most recent federal census or the most recent revised certified count by the U.S. Bureau of Census.

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Third, LB735, introduced by Senator Blood--again, that's LB735, introduced by Senator Blood--clarifies that municipalities have the authority to enter into interlocal agreements with the county in which the extraterritorial zoning jurisdiction of municipalities, basically, allows them to prevent, remove, and abate nuisances in the ETJ. In addition to the third technical bill, AM2065 also incorporates three bills that are substantive in nature. First, LB768, introduced by Senator Quick, amends...with the amended committee amendment, AM1586, authorizes cities of the first class, second class, and villages to make and grant loans under the Local Option Municipality Economic Development Act, commonly referred to by LB840, for early childhood infrastructure development. Second is LB854, also introduced by Senator Quick, that amends the definition of municipality in the Nebraska Municipal Land Bank Act, enabling any municipality in the state to create land banks. Currently, only municipalities in Douglas and Sarpy County are eligible to create a land bank. The land bank is a very effective tool in addressing vacant property, abandoned and delinquent properties in our own community in Omaha; and the committee felt it was important to consider this as far as expanding. The two years that I've been in Urban Affairs, we've had numerous bills deal with vacant property and issues of nuisance regarding how to deal with those. And we believe the land bank is a good way of dealing with this. Finally, LB880, introduced by Senator Hansen, as well as the committee amendment, AM1792, requires cities to include early childhood element in their comprehensive plan no later than January 1, 2020, either when adopting a new comprehensive plan or updating the current existing plan. As amended, cities can meet the requirements of the bill using publicly available data information on various sources including Department of Education and Department of Health and Human Services. Again, each of these bills are included in AM2065. They were advanced separately, you can see them separately, on a 7-0 vote. The amendment represents a great deal of work by our legal counsel, Trevor, and the Urban Affairs Committee and the committee itself. So I want to thank all the committee members for Execing multiple times to talk about the best way to put this together. And this committee bill was advanced out of committee and the committee participated in this process. And so I would ask for a green vote on the amendment, in addition to the underlying bill. Thank you, Mr. President. [LB873 LB765 LB748 LB735 LB768 LB854 LB880]

PRESIDENT FOLEY: Thank you, Senator Wayne. Mr. Clerk. [LB873]

CLERK: Mr. President, Senator Chambers would move to amend the committee amendments with AM2370. (Legislative Journal page 936.) [LB873]

PRESIDENT FOLEY: Senator Chambers, you are recognized to open on AM2370. [LB873]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I gave a handout this morning that shows the logo and the image that the current law requires. It

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mandates that the...I've described it as an abomination. And I even quoted a scripture, Leviticus 11:11: They shall be even an abomination unto you. It has a picture in the statute of what this logo and this slogan would be. So for the record, the image is an oxen-drawn covered wagon surmounting a hill coming toward the person looking at the picture. There is maybe three-quarters of a circle made with a line that may represent the sun rising or setting, then diagonally in very large letters with the "N" in the lower left-hand corner and it moves upward across, but beneath that picture, the word "NEBRASKAland." Then above that, moving straight across, would be "Welcome to" above that; then below it, "where the West begins." And here is what the law says at Section 90-105: "The following is hereby adopted as the official symbol and slogan for the state of Nebraska," then that drawing and the words that I mentioned. This is what 90-106 says: "The official slogan and official symbol, either separately or in conjunction with each other, shall be used by all agencies of the state whenever appropriate in the promotion of the state." Then here is the language that I would strike: "They shall be imprinted on all state letterheads and the reverse side of all mailing envelopes as new supplies are acquired." That is mandatory. This became law in 1963. It has not been obeyed in all of that time. Messing around with the statutes and looking at things, this came to my attention. So I wrote a rhyme which I'm going to read into the record. How much time do I have, Mr. President? [LB873]

PRESIDENT FOLEY: 7:25. [LB873]

SENATOR CHAMBERS: I can finish it. "THE OFFICIAL STATE LETTERHEAD/LOGO ABOMINATION," that's the title. COLLEAGUES, I don't know about you, / But in sincerity, I say true: / That SLOGAN and IMAGE, in combination / As LETTERHEAD comprise an ABOMINATION. / The COURTS, the GOVERNOR the LEGISLATURE / Know such a LETTERHEAD obscures the nature / Of what they are and what they stand for, / Such an ATROCITY there's no demand for. / Another example: the STATE PATROL -- / Does that thing reflect their role? Then I decided to play dirty pool--I'm injecting Big Red football. Now, I can criticize the Pope, I can talk about religion, but don't put your hands on Big Red football. So I thought that might give me a little oomph here: (The better part of Sound Discretion / Notes the impact of FIRST IMPRESSION): / Imagine some young "Blue-Chip" RECRUIT / Receiving a letter with THAT! He'd hoot: / "WOW! 'BIG RED' is BACKWARD and DUMB! / "So, ALABAMA, HERE I COME!" / Then, there's Big Red's COACH SCOTT FROST -- / Were he polled, he'd snort: "Get lost! / "Our Athletics Department is struggling; / "Tough recruiting requires deft juggling / "This and that, and then the other. / "All our efforts THAT THING would smother. / "It's hard enough to climb that hill / "Without the image of being HICKSVILLE. / "Per, Blue Chippers, we'd be dead / "If THAT were our letterhead. / "Players crave some swagger and braggin' -- / "Not some broke-down, ox-drawn wagon! / "Maybe some old 'Hicksters' love it -- / "I say, TAKE THAT THING AND SHOVE IT! / "In the BIG TEN, we've no chance / "If we're forced to join THAT dance." Here is the summation: After all's been said and done / Here is REASON NUMBER ONE: / While that LAW is on the books, / All of us are

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SCOFFLAWS (crooks). / Action that we take today / Will sweep our LAWLESSNESS away. / Then we could essay to teach / By PRACTICING the things we PREACH. We tell people to obey the law, and here we are as the Legislature in violation of the law since 1960 and 3...since 1963, this Legislature has been in violation of the law, as has the Nebraska Supreme Court, the Governor's Office, every state agency, all of them in violation of the law. Now, if you want to reject my amendment, then you're going to have to change all of the letterheads that these various branches of government and agencies have. Imagine Chief Justice of the Nebraska Supreme Court Michael Heavican, or whoever may hold that position, is going to correspond with other chief justices around the country and he sends a letterhead with an ox wagon on it saying, "NEBRASKAland, where the West begins." The Attorney General in addressing other attorneys general...by the way, the plural is "attorneys," plural, "general," singular. They are general attorneys, not attorney generals, but attorneys general. I would love to really see the current Attorney General having to send letterhead with that ox wagon on it to all the attorneys general around the state with whom he joins in trying to advance these backward, so-called conservative notions. And then the Governor, he's going to be going to governors conferences and he's got to send that ox wagon on his or her stationery. Now, I have tried to make it crystal clear what it is I am trying to do. I cannot save your soul. I'm not in that line of work, although, come to think of it, I am ordained. I purchased my ordination, so it's mine, but I'm not in the soul-saving business. I can, with your help, rescue every branch of government that has letterhead, every agency that uses letterhead, every agency that has mailing envelopes. I can get all of us out of the violating-the-law business. If you have any questions, I would be delighted, I mean it, I would be delighted to answer any questions you may have and counter any arguments that you may bring by the use of mocking, taunting, satire, and so forth. Thank you, Mr. President. [LB873]

PRESIDENT FOLEY: Thank you, Senator Chambers. Seeing no discussion on the amendment, Senator Chambers, you're recognized to close on the amendment. [LB873]

SENATOR CHAMBERS: Mr. President, I have never had an issue as monumental as this one, and nobody wanted to say anything. If I had a heart, when you said nobody, I would have had to stand up here and say, be still my beating heart! But such being what it is, I'm not going to take any more time. And I appreciate the fact that we will adopt this amendment, then move the bill. Thank you, Mr. President. [LB873]

PRESIDENT FOLEY: Thank you, Senator Chambers. Members, you've heard the debate on AM2370. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB873]

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CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Chambers' amendment. [LB873]

PRESIDENT FOLEY: AM2370 is adopted. [LB873]

CLERK: Mr. President, the next amendment I have, Senator Morfeld, AM2259. (Legislative Journal page 991.) [LB873]

PRESIDENT FOLEY: Senator Morfeld, you're recognized to open on AM2259. [LB873]

SENATOR MORFELD: Mr. President and colleagues, today I introduce an amendment to LB873 that incorporates a bill that I introduced earlier this session which is now on General File, passed out of committee on a 7-0 vote, LB756, that deals with short-term rentals such as Airbnb. This amendment applies to municipalities and prohibits ordinances and other regulations that would strictly prohibit short-term rentals of residential property. The bill does allow ordinances and regulations that deal with public health and safety the same way that we allow for such ordinances in long-term rentals as well. So it does maintain that ability for a municipality to regulate the short-term rentals just as we do now with long-term rentals. I want to make that clear. It does not affect regulations of a private entity including homeowners association organized under the Condominium Property Act, or the Nebraska Condominium Act. The way it works is like this: Airbnb or a similar service is an on-line marketplace that allows people to list and book accommodations around the world, from a spare bedroom to an entire house, apartment, or even a castle if you so desire. It allows individuals to safely and securely locate each other, communicate, and make financial transactions in over 65,000 cities and 191 countries. Hosts can set guidelines for guests and even require government ID. Guests and hosts can each publish reviews after checkout, keeping everyone accountable and respectful. This type of service is similar to ride-sharing services such as Uber or Lyft. This is a growing business and an opportunity for citizens to rent a room, an apartment, or even their entire residence for a short-term rental, which is defined as not more than 30 consecutive days. In Nebraska last year, there were 46,000 guest arrivals to the tune of approximately \$4.3 million, money that stayed in Nebraska and benefited our citizens and taxpayers. Guests and hosts use Airbnb to confirm travel dates, expectations, and pay. Airbnb holds on to the payment until 24 hours after the reservation begins and the hosts keep up to 97 percent of booking fees. In the rare event there is damage, the property of Airbnb hosts is covered up to \$1 million. Airbnb also works proactively with cities and states to collect all local and state taxes and remit them directly to local and state governments. Airbnb is a service I have personally used numerous times and I have found it to be safe, efficient, affordable, and a fun way to travel and meet people. It is also an important addition to our efforts to expand and promote tourism in Nebraska, and a service that many people, both young and old, have come to expect whether they are a Nebraskan or coming to

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visit our state. This amendment has undergone several changes from its first version. After its initial introduction as LB756, I worked with Airbnb, the Hotel and Motel Association, Urban Affairs Committee, Department of Revenue, and many others to find out how best this amendment can further Nebraska's interest. While the intentions of the bill remain the same, the bill now allows municipalities the ability to adopt or enforce an ordinance or other regulation that imposes a sales tax or an occupation tax on a short-term rental, if that tax is otherwise permitted by state law. Furthermore, four states have passed similar legislation--Arizona, Indiana, Idaho, and Florida--and 30 others have reached similar agreements with short-term rental services. As we continue to move to a more modernized and connected world, these are opportunities that we cannot let fall to the wayside. As previously stated, opening Nebraska up to Airbnb and similar services encourages tourism not only to urban areas, but also areas of Nebraska that remain untouched. Additionally, it provides extra income for the average Nebraskan. I have had many homeowners and people reach out to me and tell me that this is the way that helps pay their mortgage, helps float the bills from month to month, and is a great way for people to become entrepreneurial, and also consumers. And with this amendment, short-term rentals will also provide additional revenue for the state and local governments. After working with partners from all over the state and country, I am content that this amendment achieves those goals. I urge your favorable consideration of this amendment to LB873. And I look forward to taking the next steps to connect our world and wonderful state to the rest of the country and world. Thank you. [LB873 LB756]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: Senator Schumacher, you are recognized. [LB873]

SENATOR SCHUMACHER: Thank you, Mr. Speaker, members of the body. I have presented a motion to divide the question. This particular amendment has two distinct questions. One regards the municipal regulation of these establishments, and the other, far deeper into the bill, deals with constraints on the Revenue Department and negotiations on collection of taxes which is a state issue. And those are two completely different issues that we should be considering separately. I don't particularly have any problems with the first issue. The second issue I think we're going to find is more complicated than meets the eye, and should not be included in this bill. [LB873]

SPEAKER SCHEER: Thank you, Senator Schumacher. Would Senator Morfeld and Senator Schumacher please come to the front desk? The Chair rules that the amendment is divisible. Mr. Clerk, would you please...do you have anything to read in, motions? [LB873]

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CLERK: I do, Mr. President, at this time. Amendments to be printed: I have an amendment from Senator Stinner to LB944, to LB945 to be printed as well, both from Senator Stinner. Mr. President, a new resolution, LR353, it's from Senator Lowe calling for an interim study; that will be referred to the Executive Board. In addition, Mr. President, Senator McCollister would like to add his name to LB1132. (Legislative Journal pages 1031-1033.) [LB944 LB945 LB1132 LR353]

Senator McDonnell would move to recess the body until 1:30 p.m., Mr. President.

SPEAKER SCHEER: Colleagues, you have heard the request to recess until 1:30. All those in favor please say aye. All those opposed say nay. We are in recess.

RECESS

PRESIDENT FOLEY PRESIDING

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

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

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

CLERK: I do. Mr. President, Senator Wishart would like to print amendments to LB944 and Senator Blood to LB295. That's all that I have, Mr. President. (Legislative Journal pages 1034-1036.) [LB944 LB295]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Members, prior to the lunch recess, Senator Schumacher had made a motion to divide AM2259. The Speaker ruled that the amendment is divisible. The two parties, Senator Morfeld and Senator Schumacher, reached an agreement as to what that division would be. And, Mr. Clerk, if you could describe to the body the nature of that division to AM2259. [LB873]

CLERK: Yes, sir, Mr. President. There will be new AM numbers identified. The first will be AM2519 and AM2520. Senator Morfeld, I believe you would like to address AM2519 as your

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first amendment to the committee amendment, Senator. (Legislative Journal pages 1029-1031.)
[LB873]

PRESIDENT FOLEY: Senator Morfeld, you're recognized to speak to your amendment.
[LB873]

SENATOR MORFELD: Colleagues, I believe Senator Schumacher will get up and speak right after me and confirm what I'm about to say. But we worked over the lunch hour to an agreement that we would both support the first amendment that we're addressing right now, AM2519, and that I would agree to vote down the second half of the division, the next AM that will come up. And we'll make that clear. The issue here was the audit provisions for the Department of Revenue. And I won't go into too much detail on this because I am going to recommend voting that part of the amendment down, but the bottom line is that Airbnb is kind of acting in a unique role here as collecting the taxes for the Department of Revenue. And the disagreement was over how far an audit can go with the Department of Revenue. Now, that's in the second half of the division that Senator Schumacher has some heartburn on. This first half right now, the one that we're looking at, AM2519, is uncontroversial between Senator Schumacher and myself and I think I can...I think Senator Schumacher will allude to that when he gets on the mike. And this really is pretty standard language that was passed out 7-0 by the committee and agreed to by all of the other parties. So the hotel folks, the lodging folks, all those folks, we agreed upon this language. The point of contention, again, was just the audit provision with Department of Revenue. My understanding is the Department of Revenue and Senator Schumacher and myself have all agreed that if we just take out that Section 4 in the second half of the division, we're going to be fine. So I would ask a green vote on AM2519, which is the bulk of the bill, which makes sure that short-term rentals like Airbnb can operate in the state of Nebraska and then I'll ask for a red vote on the next amendment. Thank you, Mr. President. [LB873]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Schumacher. [LB873]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. I know that you don't want to listen to me any more than you absolutely have to, so this is a very simple proposition, as described by Senator Morfeld, and that is green on the first amendment, red on the second, so just think Christmas colors. Thank you. [LB873]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Seeing no further discussion, Senator Morfeld, you're recognized to close on AM2519. [LB873]

SENATOR MORFELD: Colleagues, please vote green on this part and then we'll vote red on the next one. Thank you. [LB873]

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PRESIDENT FOLEY: Thank you, Senator Morfeld. Members, the question before the body is the adoption of AM2519. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB873]

CLERK: 25 ayes, 1 nay, Mr. President, on the adoption of Senator Morfeld's amendment. [LB873]

PRESIDENT FOLEY: AM2519 is adopted. Mr. Clerk. [LB873]

CLERK: Senator, your second component of your original amendment is AM2520. (Legislative Journal page 1031.) [LB873]

PRESIDENT FOLEY: Senator Morfeld, you're recognized to open on AM2520. [LB873]

SENATOR MORFELD: Thank you, Mr. President. Colleagues, for all those times that you've been upset with me, this is your opportunity to vote no, to vote no and just take out Section 4 of this bill. That will alleviate any opposition that has been brought up to me so far with the Department of Revenue and Senator Schumacher and I ask that you vote red. Thank you. [LB873]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Bostelman. [LB873]

SENATOR BOSTELMAN: Thank you, Mr. President. Senator Schumacher, would you yield to a question? [LB873]

PRESIDENT FOLEY: Senator Schumacher, would you yield, please? [LB873]

SENATOR SCHUMACHER: Yes, I will. [LB873]

SENATOR BOSTELMAN: Could you go over one more time with me what we're doing here, what the issue is? [LB873]

SENATOR SCHUMACHER: Okay. Basically, the additional...the language in controversy is under number 4 of the bill. And what it did is it put some restrictions on the Department of Revenue's auditing authority and it also made some restrictions on what could be disclosed by or had to be disclosed by Airbnb to the Revenue Department. So think of it this way. Airbnb under the part that we just passed reports in sales tax basically and maybe some occupation taxes or

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hotel fee taxes to the Department of Revenue, because they're the ones that collect it from these customers that are out there. And then once they collect it and pay the tax to the Department of Revenue, the sales tax forms, they send over to the people renting these houses their check, their share of the action. And what the language could have been...that was there read was basically limiting the Department of Revenue's authority to find out from Airbnb how much they paid to the various landlords out there. Kind of almost like when you, if you're in business, you send 1099s out. That was kind of the information that Revenue wanted and wanted to make sure that this did not impede them in auditing these landlords for income tax purposes. So now Revenue is happy. [LB873]

SENATOR BOSTELMAN: So the landlord then has a private residence, would then become a commercial residence when they lease that room or that building out? [LB873]

SENATOR SCHUMACHER: That's not covered by this bill. I understand that whenever you deal with some of these arrangements apart from the tax issues and the discussion in this amendment, there are lots of other issues, like whether or not your homeowner's insurance will cover if somebody gets hurt in this house of yours or this second home while you are renting it out to Airbnb, just a lot of issues that this bill doesn't reach. This is a very limited bill as far as the tax provisions are and it lets to some of the cities, under the first portion of the bill that we just passed, try some regulatory things. But before you do any of these, you need to be aware of insurance consequences and things like that. [LB873]

SENATOR BOSTELMAN: Okay. Thank you, Senator Schumacher. Thank you, Mr. President. [LB873]

PRESIDENT FOLEY: Thank you, Senators Bostelman and Schumacher. Seeing no one in the queue, Senator Morfeld, you're recognized to close on AM2520. [LB873]

SENATOR MORFELD: Colleagues, as we just stated, please vote no on AM2520 to take out this controversial provision and move on with the overall bill. Thank you, Mr. President. [LB873]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Members, the question before the body is the adoption of AM2520. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB873]

CLERK: 3 ayes, 25 nays, Mr. President, on the amendment. [LB873]

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PRESIDENT FOLEY: AM2520 does not pass. Continuing discussion on the bill, Senator Clements. [LB873]

SENATOR CLEMENTS: Thank you, Mr. President. This large, large amendment seems to have quite a bit of various provisions in it. Just a minute. The one I had a question about, we had two different ones that deal with early childhood development. Who had...LB768 was Senator Hansen? Senator Quick, were you on LB768 or LB880? [LB873 LB768 LB880]

PRESIDENT FOLEY: Senator Quick, would you yield, please? [LB873]

SENATOR QUICK: Yes. Yes, I will. [LB873]

SENATOR CLEMENTS: Thank you. Could you tell me what the purpose of that bill was? [LB873]

SENATOR QUICK: It is to allow for...you know, you have the LB840 monies that are already used for economic development. It would allow for early childhood infrastructure to be added to that so they could apply for a loan or a grant to put in early childhood infrastructure. [LB873]

SENATOR CLEMENTS: Is that the city that would be doing that? [LB873]

SENATOR QUICK: No. It would be...they would apply to the city to receive the LB840 funds to...like if...let's just say they wanted to put a day care in to draw more employees to the...it's an economic development tool, so it allows for growth to bring employees, encourage employees to move there or to expand the businesses that are already there with having affordable day care. [LB873]

SENATOR CLEMENTS: And what fund would the city use to provide that money? [LB873]

SENATOR QUICK: Well, it's the LB840 funds, which are already there for economic development. [LB873]

SENATOR CLEMENTS: I see. Right now they're restricted from using it for that purpose? Is that correct? [LB873]

SENATOR QUICK: Right now it can't be used for early childhood infrastructure. It can only be used for...let's just say a business wants to come in. I think they can use the LB840 money to

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bring in a new business or to expand their business within the community and they can apply for those loans or grants. [LB873]

SENATOR CLEMENTS: Thank you. Senator Hansen, on LB880, early childhood being included in comprehensive plans, could you tell me the reason for that? Would he yield to a question? [LB873 LB880]

PRESIDENT FOLEY: Senator Hansen, will you yield, please? [LB873]

SENATOR HANSEN: Yes, I would. And to your question, yes, we were just trying to include opportunities for early childhood to be included in city comprehensive plans. City comprehensive plans already cover a myriad of issues from natural resources to transportation to sometimes education and employment and it's kind of we as a state have done things like the Step Up to Quality program. We thought it was appropriate to ask cities to look at early childhood, so before K-12, as well. [LB873]

SENATOR CLEMENTS: I wasn't able to determine which cities are mandated by this. Could you explain which cities would be included, what size? [LB873]

SENATOR HANSEN: Yeah. It would be all cities of first, second, primary, and metro. And we did it as part of their ongoing comprehensive plan updates. So the next time they do a comprehensive plan update, they should include early childhood as one of the elements. [LB873]

SENATOR CLEMENTS: This isn't going to take effect right away. Was it a delay period? What was the effective date? [LB873]

SENATOR HANSEN: Yeah. We asked...we said...we put an end date of 2022. Most cities update their comprehensive plans periodically, that's kind of their intent. And so we said, the next time you update by 2022, please include it. [LB873]

SENATOR CLEMENTS: Well, it's a deadline of 2022 then, to be done by 2022? [LB873]

SENATOR HANSEN: Yes. [LB873]

SENATOR CLEMENTS: All right. So that would be starting as soon as this would be enacted... [LB873]

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PRESIDENT FOLEY: One minute. [LB873]

SENATOR CLEMENTS: ...then the next period of time. All right. So the only cities that are not required to do this would be smaller villages? Is that right? [LB873]

SENATOR HANSEN: Yeah. We applied it to everybody that is currently required under statute to have a comprehensive plan and I believe villages are not included in comprehensive plans at the moment. [LB873]

SENATOR CLEMENTS: All right. Thank you. I just...it wasn't clear to me as to who this was affecting. And I don't believe I'm supporting of this portion of this bill and I would have rather had some separate discussion on these different sections. Thank you, Mr. President, for your time. [LB873]

PRESIDENT FOLEY: Thank you, Senator Clements. Senator Hilgers. [LB873]

SENATOR HILGERS: Thank you, Mr. President. Good afternoon, colleagues. I was wondering if Senator Wayne would respond to a question or two? [LB873]

PRESIDENT FOLEY: Senator Wayne, would you yield to a question, please? [LB873]

SENATOR WAYNE: Yes. [LB873]

SENATOR HILGERS: Senator Wayne, I was wondering...I know you sent some information to the body before on the bills, but I understand that this...the AM2065 includes a number of bills that were in front of the...were introduced and were heard for hearing in front of the Urban Affairs Committee. Is that right? [LB873]

SENATOR WAYNE: Correct. [LB873]

SENATOR HILGERS: And how many were there? [LB873]

SENATOR WAYNE: I believe there was an AM...there is six bills attached to this. Correct. [LB873]

SENATOR HILGERS: Do you happen to have the bill numbers for all those, Senator Wayne?
[LB873]

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SENATOR WAYNE: Yes. The first one is LB765 introduced in Urban Affairs, that's a clean-up bill regarding Chapter 16. Second is LB748 introduced by Hansen. Second is LB735 introduced by Senator Blood. Those were all clean-up bills. The substantive bills is LB768 by Quick; LB854 by Senator Quick; and LB880 by Senator Hansen. So those three...the last three are what I would deem substantive. The first three are strictly clean-up bills that are not substantive in nature. [LB873 LB765 LB748 LB735 LB768 LB854 LB880]

SENATOR HILGERS: Do the clean-up bills, Senator Wayne...were there any opposition to those clean-up bills? [LB873]

SENATOR WAYNE: No. [LB873]

SENATOR HILGERS: And for the LB768, LB854 and LB880, were there opposition, do you recall, to those bills? [LB873 LB768 LB854 LB880]

SENATOR WAYNE: The only opposition was...the only bill in all these bills that had opposition was LB854 and that was by one group. [LB873 LB854]

SENATOR HILGERS: And LB768, I think I've got it on my gadget, but can you just give a quick synopsis of what that does? [LB873 LB768]

SENATOR WAYNE: That allows first-class and second-class cities and villages to make grants, loans underneath what's deemed as the LB840 funds, which is a localized tax that they can use and this would allow them to make grants for including early childhood development. [LB873]

SENATOR HILGERS: And LB854...I think we might have a...go ahead. [LB873 LB854]

SENATOR WAYNE: LB854, Senator Quick, it takes the Municipality Land Bank Act that was passed by this body 47-0, signed by Governor Heineman and enacted by Jean Stothert, the mayor of Omaha, and expands that concept across the state to cities, municipalities, first-, second-class cities. [LB873 LB854]

SENATOR HILGERS: And LB880? [LB873 LB880]

SENATOR WAYNE: LB880 is Senator Hansen's bill that requires the current law that already has comprehensive plans to allow that plan or must...that plan must include a section on early childhood development as far as part of that comprehensive plan. [LB873 LB880]

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SENATOR HILGERS: Okay. Thank you, Senator Wayne. [LB873]

SENATOR WAYNE: Thank you. [LB873]

SENATOR HILGERS: Mr. President, how much time do I have left? [LB873]

PRESIDENT FOLEY: Just 2:00. [LB873]

SENATOR HILGERS: Is there anyone behind me? [LB873]

PRESIDENT FOLEY: Several. [LB873]

SENATOR HILGERS: Okay. Would Senator Quick yield to a question or two? [LB873]

PRESIDENT FOLEY: Senator Quick, would you yield, please? [LB873]

SENATOR QUICK: Yes. [LB873]

SENATOR QUICK: Thank you, Senator Quick. So LB854, I believe Senator Wayne and I just had a conversation about that. That's one of your...that's a bill that you introduced? [LB873 LB854]

SENATOR QUICK: Yes. [LB873]

SENATOR HILGERS: Could you speak a little bit...or let me ask you this question. This was based...currently Omaha and Douglas County...or Omaha and then Sarpy County has the ability to create the land bank, is that right? [LB873]

SENATOR QUICK: Yes, that's Omaha and cities within Douglas and Sarpy County. [LB873]

SENATOR HILGERS: Okay. What year was that originally passed, do you recall? [LB873]

SENATOR QUICK: It was passed in 2013 and then the city council of Omaha passed it in 2014 to establish a land bank. [LB873]

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SENATOR HILGERS: And so it's been about three...a little over three years of experience on this one? [LB873]

SENATOR QUICK: Yes. [LB873]

SENATOR HILGERS: Okay. I understand Omaha, they hired...do they have a full-time executive director in Omaha? [LB873]

SENATOR QUICK: They do. [LB873]

PRESIDENT FOLEY: One minute. [LB873]

SENATOR HILGERS: Thank you, Mr. President. Do you know if that's also the case with the Sarpy County experience? [LB873]

SENATOR QUICK: I don't know. I just know the city of Omaha has one established. I don't know if they've done an interlocal agreement to...for the cities in Sarpy County, if that's how that works. [LB873]

SENATOR HILGERS: Okay. And do you know...I understand that there has been some positive impact of the land bank in Omaha but have...do you know of any negative circumstances or experiences that they've had so far? [LB873]

SENATOR QUICK: I do not know of any negative impact that they've had or experiences, no. [LB873]

SENATOR HILGERS: Did the city of Omaha testify at all at the hearing? [LB873]

SENATOR QUICK: Yes, they did. [LB873]

SENATOR HILGERS: They did? [LB873]

SENATOR QUICK: Uh-huh. [LB873]

SENATOR HILGERS: And how much time do I have, Mr. President? [LB873]

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PRESIDENT FOLEY: Fifteen seconds. [LB873]

SENATOR HILGERS: Fifteen seconds. Well, I might ask you that when I come back on. Thank you, Senator Quick, I appreciate it. Thank you, Mr. President. [LB873]

PRESIDENT FOLEY: Thank you, Senator Hilgers and Senator Quick. Senator Erdman. [LB873]

SENATOR ERDMAN: Thank you, Lieutenant Governor Foley. I appreciated Senator Wayne sending out the two-page document explaining what was in this bill. I started reading through this last week and it came to mind about Obamacare; we got to pass it to see what's in it. It has 248 pages. So I began to read through that and then when I got the document from Senator Wayne, I broke those down and was able to understand some of those better. Senator Quick, I was wondering if you would yield to a question. [LB873]

PRESIDENT FOLEY: Senator Quick, would you yield, please? [LB873]

SENATOR QUICK: Yes. [LB873]

SENATOR ERDMAN: Senator Quick, I appreciate that, you taking a question. So right now LB840 money cannot be used to build day-care centers? [LB873]

SENATOR QUICK: No. [LB83]

SENATOR ERDMAN: And so on your statement of intent on the second paragraph, it says the following, I want you to describe to me what this means. It says: Early childhood infrastructure development pertains to early childhood education programs of recognized quality as determined by the quality rating criteria provided under the Step Up to Quality Child Care Act. So if you're going to distribute money to build a day care or whatever childhood development center, how will you know that that childhood center is meeting these criteria if they've never been in business? [LB873]

SENATOR QUICK: Well, there's a certain criteria that they have to meet. I mean, under the...I don't have that in front of me, what you have right now, but I believe there's a certain criteria they have to meet for quality childhood infrastructure or education. There are certain criteria that they have to meet. So even if a new place was...they'd still have to meet that criteria. If they say they're going to build a facility, they're going to have to meet that criteria. [LB873]

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SENATOR ERDMAN: Okay. So let's say, for example, I build a childhood education program center and I have been instructed to meet certain requirements to be approved for a quality education center and I don't meet those criteria. Will you take my LB840 money back? [LB873]

SENATOR QUICK: I can't answer that. I can find out that answer for you, but I can't answer how that LB840 money...it would be the same thing for economic development of any kind. I don't know how they...if that company doesn't do what they say they're going to do, I don't know what happens after that process. But I can find that answer out for you. [LB873]

SENATOR ERDMAN: But I think in the case with those other LB840 money, there are certain criteria that's put in place, they must start a business, hire employees and whatever they must do according to their contract. But in this case, it says the education program of recognized quality. I'm a little confused as to how you can develop something and determine what the quality is going to be before it's developed. This bill doesn't seem to make a lot of sense to me and it's...I don't understand why they can't use that now, but I'm not convinced yet that this is the way to go. This is a convoluted amendment. And while I have you on the mike, I may ask you some other questions. You introduced LB854 as well, right? [LB873 LB854]

SENATOR QUICK: Yes, that's correct. [LB873]

SENATOR ERDMAN: Okay. So LB854 has been in place, as Senator Hilgers asked, about three years? [LB873 LB854]

SENATOR QUICK: Yes. [LB873]

SENATOR ERDMAN: It allows the city to convey property and use for public spaces, community gardens, wildlife conservation areas, and anything else and fixing up delinquent properties and getting them back on the tax rolls. So if I'm a land bank and I buy a property and I fix it up, then as a land bank, can I rent that out? [LB873]

PRESIDENT FOLEY: One minute. [LB873]

SENATOR ERDMAN: Thank you. Can I rent that out? [LB873]

SENATOR QUICK: Well, for one thing, it can't be used for wildlife conservation areas. [LB873]

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SENATOR ERDMAN: Okay. [LB873]

SENATOR QUICK: That's not part of the statute. [LB873]

SENATOR ERDMAN: Right. [LB873]

SENATOR QUICK: But there are some properties that may be too small to put a house on. And maybe that neighborhood decides they don't want that redeveloped because it would be... [LB873]

SENATOR ERDMAN: Right. [LB873]

SENATOR QUICK: ...put too small a house in that neighborhood. So it could be turned into a community garden or something like that upon... [LB873]

SENATOR ERDMAN: We talked about that. [LB873]

SENATOR QUICK: Yeah. [LB873]

SENATOR ERDMAN: Yeah. But this one here is...it's peculiar to me because what it looks to me like is once they start this land bank, they don't pay any taxes. And then if they continue to have the residence and rent it out, they're going to be competing with people who have to pay the taxes. It looks to me like that this is something that needs to have more scrutiny than we have already talked about. So I will talk to you again when I get my light on again. Thank you. [LB873]

PRESIDENT FOLEY: Thank you, Senator Erdman and Senator Quick. Senator Thibodeau. [LB873]

SENATOR THIBODEAU: Thank you, Mr. President. And, Senator Quick, we're just going to keep you on the mike for a while. Would you yield to a couple of questions? [LB873]

PRESIDENT FOLEY: Senator Quick, would you yield, please? [LB873]

SENATOR QUICK: Yes. [LB873]

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SENATOR THIBODEAU: So, obviously, as an early childhood development owner I look at LB768, probably surprisingly to a lot of people, with some questions and concerns. One is, these people would apply for this economic development before they open. That's what you said. Correct? [LB873 LB768]

SENATOR QUICK: Yes. I'm going to say they're going to need to know the funds are there in order to apply for the grant or the loan in order to build a facility. [LB873]

SENATOR THIBODEAU: So are the standards that they have to meet defined? [LB873]

SENATOR QUICK: Excuse me, what was that? [LB873]

SENATOR THIBODEAU: I'm sorry. Are the standards that these early childhood development centers have to meet, are they defined? [LB873]

SENATOR QUICK: Under the quality childhood education act. [LB873]

SENATOR THIBODEAU: Okay. But you really don't know if they're going to meet those until there are children in the building. Correct? [LB873]

SENATOR QUICK: Well, I think most anybody that's going to build that is going to know the qualifications before they start. So they're not going to want to endanger those funds. They're going to want to do it the right way. [LB873]

SENATOR THIBODEAU: So if they were doing it the wrong way, what would happen? [LB873]

SENATOR QUICK: And that was a question I had to find out. I don't know what happens to those funds...LB840 funds for any process at this moment, but I can find that answer out for you. [LB873]

SENATOR THIBODEAU: So the...yes, please do, because that would concern me. There are...we hear stories in the news every day about childcare, day cares who operate inappropriately. One of the things I'd like to point out is obviously early childhood is licensed through Department of Health and Human Services. You're not even given a permanent license until you have been open for one year. For the first year you're under a provisional license, because you need to prove to DHHS that you are going to operate under their rules and

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regulations, as well as a lot of the accreditations that early childhood goes through. If you look at NAEYC, we are advanced ed accredited. We had to be open for at least two years before we could apply for any of those accreditations because we had to show and prove that we were doing what we say we do. So I guess I would not be able to support this bill unless there were clear standards. If it said you had to meet the standards of Step Up to Quality and exactly what would happen if you did not meet those standards, if that...you would have to pay that money back. You know, you run into a whole gamut of problems, I think, then the children in that place suffer because, obviously, a business owner probably won't be able to pay that money back and then they end up closing their doors and you have a bunch of people out of childcare, early childhood development. So I would appreciate some more answers to that before moving forward. How much more time do I have left, Mr. President? [LB873]

PRESIDENT FOLEY: 1:45. [LB873]

SENATOR THIBODEAU: Okay. I'll yield the rest of my time to Senator Wayne then since he said he could answer it for me. [LB873]

PRESIDENT FOLEY: Thank you, Senator Thibodeau. Senator Wayne, 1:40. [LB873]

SENATOR WAYNE: So most of our grants, tax breaks programs don't list out penalties in statutes. So this is no different than the current statute which Senator Erdman talked about because those guidelines are often set by the individual cities and if they break or do not meet those guidelines, that is a local issue between the city and that developer. So what will happen is, a developer will go in, apply for these grants, including if this passes day care, they will enter into a contractual relationship with the city as they must do x, y and z... [LB873]

PRESIDENT FOLEY: One minute. [LB873]

SENATOR WAYNE: ...in order to receive that grant and to keep that grant. If they don't, it's a breach of contract. But most of our statutes, most of our...including the LB840 funds, do not stipulate penalties if you don't do it. So what this bill actually does is align with the rest of LB840 funds that are currently already allowed to say the same things. But he is adding some guidelines, but we don't ever put the penalties in on what those guidelines are in almost all of our statutes. That is a contractual relationship between the developer and when they put that RFP or when they apply for that grant. So that's why it's not in there, because what might be a penalty for Omaha can be a significantly different penalty for Kearney, Nebraska, so we leave that to the local level. And that's almost on all of our programs throughout the state in any statute, including the Advantage Act. We don't list penalties. That is done through the organization who authorizes those grants because it is a contractual relationship. [LB873]

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PRESIDENT FOLEY: Time, Senator. [LB873]

SENATOR WAYNE: Thank you. [LB873]

PRESIDENT FOLEY: Thank you, Senator Wayne. Senator Albrecht. [LB873]

SENATOR ALBRECHT: You know, I have a lot of questions because there is so much in here. So I had gone and asked...by the way, thank you, President Foley, for allowing me to speak. I asked Senator Wayne...176 pages and all of these bills are kind of wrapped into it. So the first section would do with LB873, which is Senator Wayne's bill, his clean-up bill. So I guess I'd like to ask if Senator Wayne would yield to a couple quick questions. [LB873]

PRESIDENT FOLEY: Senator Wayne, would you yield, please? [LB873]

SENATOR WAYNE: Yes. [LB873]

SENATOR ALBRECHT: Senator Wayne, like on page 7, line 27 and 28, it refers to a different form of government. Did someone come and ask you to put some new things into this bill or is this truly something that was a clean-up bill in your department? [LB873]

SENATOR WAYNE: No, it's truly a clean-up bill. So in 2014-15, and again in '16, there were different interim studies done and different languages were looked at. Last year this body passed I think 48-0 with two other clean-up bills that were also 200 pages. And if you remember, I said ETJ wrong on the mike and called it "extraterrestrial" jurisdiction. So that's why most people remember that the bill passed. These are truly clean-up bills where we're changing "a" and "this" and gender. But the city governance portion is because cities are calling it different. It doesn't match statute because statutes, in this case, that particular provision was 1940s and some date back to 1800s. [LB873]

SENATOR ALBRECHT: So in no way are we creating any other form...another line there or another form of government that has to have other commissions or... [LB873]

SENATOR WAYNE: No, we are actually modernizing our code to make it match our current forms of governments. [LB873]

SENATOR ALBRECHT: Thank you. Within this whole bill, are there any fiscal notes that you can speak to? [LB873]

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SENATOR WAYNE: No. The only one...though there isn't any. The only one that I thought had one was resolved by the Morfeld amendment being attached and Senator Schumacher taking out the other part. That would be been a \$25,000 to \$50,000 Department of Revenue auditing fee. But other than that, then no. [LB873]

SENATOR ALBRECHT: Okay. And the final question I would have, Senator Blood, I don't see her on the... [LB873]

SENATOR WAYNE: I can answer her question. She had to step out and make a phone call. [LB873]

SENATOR ALBRECHT: Can you tell me where her bill is presented in the 176 pages? I understand it's just one paragraph, but I've gone through. [LB873]

SENATOR WAYNE: Her bill number is LB735, Section 101 and 342. I will get you the exact page number. I believe...I won't misspeak on the mike, but I'll grab it right now. It is literally only half a page. [LB873 LB735]

SENATOR ALBRECHT: Okay, great. Thank you for your time. [LB873]

PRESIDENT FOLEY: Thank you, Senator Albrecht and Senator Wayne. Senator Wayne, you're next in the queue. [LB873]

SENATOR WAYNE: Thank you. Because we took lunch and because right before lunch most people weren't paying attention to me because you were thinking about barbecue ribs and some other stuff, I'm just going to take five minutes to...couple minutes to rewrap what this bill does. And the problem for all of my fellow--I guess we're sophomores now, I don't know how that works, we're still freshmen maybe--we've never really dealt with Christmas tree bills, we never dealt with omnibus bills like this, and it's always fun to be the first one in front of us because everybody is, like, this is a huge bill. This is actually common. It's not complicated, but the reason why the bill is so long is because the clean-up bill, the two clean-up bills that are involved. What I want to make sure when we do an omnibus bill in my committee is, I want to make sure that they're relevant. So we had to find a bill that opens up sections to make it all relevant. I didn't want to attach a whole bunch of different bills and a whole bunch of completely different sections. So through the clean-up bills, there was enough sections opened up that we decided to attach things to it. We picked the most noncontroversial ones in our committee, although they might be controversial out on the floor. There was hardly any opposition, except to one. And that one opposition--and I saw the e-mails and letters go around--quite honestly, are not

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telling the whole truth. First, the land bank cannot raise your local property taxes. It cannot do that. The 50 percent buy-back provision or when something sells for the five years is simply to allow...to allow the land bank to function. They have no other sources except for private donations. The land bank, the reason why it's critical is because of the whole entire tax lien industry. We talked a little bit about that when Senator Schumacher introduced a bill about the tax lien industry, but what happens is you have out of town investors or maybe some that are three or four hours away who put tax liens on properties and those properties sit for three to five years vacant, causing nuisances, causing problems, especially in cities where a house that's not boarded up allows people to ransack it or creates dangers for children, sits there. And it sits there because through our constitution you cannot take a person's property for at least two years. But if you think about how local properties' tax work, you're actually in the third year before you can start the process. So you're actually three years out before you start the process. But the investor wants to make the money off of his investment on that 14 percent. We talked a lot about that during Senator Schumacher's bill. That 14 percent means more than often trying to go in and find a local real estate agent, fix up the house to sell it--although we have one on the floor, a local real estate agent. But to fix it up and sell it, that costs more money because the reality is, three years of a house sitting by itself with no care take is getting run down more and makes it almost impossible to sell. What the land bank does as last resort, buys the property, clears the title, and makes sure that they can sell it at clearly a reasonable rate. That's how it operates. We're talking about dealing with property that is vacant, property that is run down. And those who say, well, you're taking 50 percent off the tax rolls, there's a couple things. One, if it's TIFed or part of a TIF project, it is not included so the whole goes to the TIF. Second, your local board has the option of waiving or not waiving to keep that 50 percent over that five years. So if there's heartburn in your community, your city council, your council that we just changed if this bill passes--I just changed what Senator Albrecht and I were talking about, whatever that council form is again--they can put the same kind of pressure and take a vote to keep the property tax and not go to them and that board, which is appointed oftentimes with the consent of the city council but appointed by the mayor,... [LB873]

PRESIDENT FOLEY: One minute. [LB873]

SENATOR WAYNE: ...obviously will listen or they probably won't get reappointed. There are checks and balances. This is not an organization that can build up its assets and rent out property. Or this bill, which is in current statute, limits the lease of any building that they have for one year; they have...they cannot lease it over a year. We are trying to move property through the system and put it back on the market, back on the payrolls, our property tax rolls so it can become productive in the marketplace. That's what we always talk about here. How do we do economic development? How do we grow our tax base? This is one of the answers. That's what this bill does with Omaha...well, expanding the Omaha Land Bank to now be a Nebraska land bank where local organizations can do it. Thank you, Mr. President. [LB873]

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PRESIDENT FOLEY: Thank you, Senator Wayne. Senator Geist. [LB873]

SENATOR GEIST: Yes. Thank you, Mr. President. And, Senator Wayne, I do appreciate the need for economic development. I think that is important. Bottom line, though, I see the land bank as being a potential for abuse. On page 7 of the original bill, and let's see, starting on line 29, I'm just going to read a few of the powers that the land bank has and one of them is to adopt and amend and repeal bylaws, of course. Going on down it says to sue and be sued in its own name. The section (c) says, to borrow money from private lenders, from municipalities, from the state or from the federal government funds as may be necessary for the operation and work of the land bank; section (d), to issue negotiable revenue bonds and notes according to the provisions of the Nebraska Municipal Land Bank Act and then it goes on down. And my concern about this is not necessarily the intent. I think the intent is honorable. However, the way I read this is, this is another entity in our government that allows bonding, that allows borrowing of money, which the only way to pay that back is with the taxpayer money. Therefore, I have a problem with that. It's also a group of appointed individuals, appointed by the mayor, who I'm sure has the greatest of intentions, the greatest of economic development intentions, but those people are not accountable directly to the people. They're accountable directly to the mayor. And so I am just in principle opposed to new entities being able to have the benefit of bonding. And I understand this is already in statute, but it's not exercised in every municipality. And I'm just opposed to an additional bonding entity in a new or in a municipality and an entity that has not bonded before. And that's all I have, Mr. President. Thank you. [LB873]

PRESIDENT FOLEY: Thank you, Senator Geist. Senator Erdman. [LB873]

SENATOR ERDMAN: Thank you, Lieutenant Governor Foley. I see Senator Quick is close to his microphone. I wonder if he would answer a question or two? [LB873]

PRESIDENT FOLEY: Senator Quick, would you yield, please? [LB873]

SENATOR QUICK: Yes, I will. [LB873]

SENATOR ERDMAN: So, Senator Quick, if I am a day care, early childhood educator now in my community and someone wants to come and build a new facility and they get LB840 money, then they would be competing against me and that would be okay? [LB873]

SENATOR QUICK: Well, I mean, there's not enough day-care facilities now the way it is. So, you know, as far as competing we're looking at putting in quality day care, or quality child ed

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infrastructure to actually benefit the community so more people will have the opportunity to take their kids to a quality day care. [LB873]

SENATOR ERDMAN: Okay. So help me with my hypothetical. Let's say that I am in business and you wanted to build one also. You would get LB840 money and I wouldn't. Is that correct? [LB873]

SENATOR QUICK: Well, it depends on if I applied...you know, who applies for it and if you're both building and you... [LB873]

SENATOR ERDMAN: So then basically what we're doing there is we're doing like we normally do in government, we're picking winners and losers. One person gets tax relief or LB840 money and the other one does not. [LB873]

SENATOR QUICK: It has to go before the city council and they have to approve that. [LB873]

SENATOR ERDMAN: Right, I understand that. I'm having a tough time getting my hands around this one. Let's go back to the LB854 while I have you on the mike, the land bank bill. So if we start a land bank in my community, how do we fund that when we start out? [LB873 LB854]

SENATOR QUICK: Okay. So, you know, and that's a whole process in itself. I think some of the smaller communities are going to have to wait till the bigger communities get established to maybe get some guidance and some help. But like the city of Omaha, they had a lot of people that donated money to get that started. I mean there was some foundations that donated large amounts of money. I could see that happen in Grand Island where you'd have people like some of the foundations in Grand Island would put money in to help with some of these properties that they can't deal with in town right now. [LB873]

SENATOR ERDMAN: Would that be a grant or a loan that those people put in? [LB873]

SENATOR QUICK: No, it's a donation, strictly a donation. [LB873]

SENATOR ERDMAN: It's a donation? Okay. So then a land bank buys a property, say in Senator Wayne's example, a house that had been vacant for three years and been in foreclosure and they buy this house and they fix it up and they say that...the bill says you can rent it for a year. Is that correct? [LB873]

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SENATOR QUICK: They can rent it for up to a year. [LB873]

SENATOR ERDMAN: Up to a year? Okay. [LB873]

SENATOR QUICK: It's...yeah. [LB873]

SENATOR ERDMAN: So the land bank rents the house for a year. Does the land bank pay any taxes while they're renting that house? [LB873]

SENATOR QUICK: I do not believe they do at that time. [LB873]

SENATOR ERDMAN: Okay. [LB873]

SENATOR QUICK: Well, yeah. I don't know. I guess I should find that answer out, but most of those properties, they're probably paying whatever the current tax is once they acquire it, would be my guess. [LB873]

SENATOR ERDMAN: I think I read in the bill that said that they don't pay any taxes. You can check that out for me, if you would. [LB873]

SENATOR QUICK: Yeah. I will check. I will find that out for sure. [LB873]

SENATOR ERDMAN: And then Senator Wayne also said, and I understand what he said about they can keep up to 50 percent of the property taxes if the board so chooses. And he also made a statement and I read it also. It said that board that is in charge of the land bank is appointed by the mayor or the village board or whoever it's appointed by. Is that correct? [LB873]

SENATOR QUICK: Yes, the board is appointed by the mayor and approved by the city council. [LB873]

SENATOR ERDMAN: So do they have authority to borrow money and issue bonds and all that? [LB873]

SENATOR QUICK: They do, but it's only revenue bonds and the city of Omaha has not even exercised that. They've went through the credit route when they have needed to secure credit. [LB873]

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SENATOR ERDMAN: All right. So we have a board that's appointed by the city council or the village board that has the authority to borrow money or distribute bonds and... [LB873]

PRESIDENT FOLEY: One minute. [LB873]

SENATOR ERDMAN: ...they have no authority to anybody but the people who appointed them. Is that a problem that we don't have elected officials making these decisions? [LB873]

SENATOR QUICK: Well, within the statute, it outlines a criteria because they want to have bankers, they want to have people from real estate, they want to have developers, nonprofit. They wanted representation from different areas of expertise to be able to make these decisions on the property. And so if you have elected positions, you're not going to get that expertise on that board. [LB873]

SENATOR ERDMAN: But if I have an elected position or person, he's responsible to the voter. If this person is appointed by the mayor or the village board, they're responsible or act or are responsible to those people. It seems peculiar to me that we would grant these kind of authorities to an appointed board and this whole thing just looks peculiar to me. I think if it's working in Douglas and Sarpy County, let them keep it. Thank you. [LB873]

PRESIDENT FOLEY: Thank you, Senator Erdman and Senator Quick. Senator Thibodeau to be followed by Senators Quick, Bolz, Hilgers, Wayne and Halloran. Senator Thibodeau. [LB873]

SENATOR THIBODEAU: Thank you, Mr. President. And actually, before I speak again, I do need to file a conflict of interest form on this bill since it does deal with early childhood education. So I would like to yield the remainder of my time to Senator Hilgers. [LB873]

PRESIDENT FOLEY: Thank you, Senator Thibodeau. Senator Hilgers, 4:30 by the time you get there. [LB873]

SENATOR HILGERS: Thank you, Mr. President. Thank you, Senator Thibodeau. I was wondering if Senator Quick might answer a question or two? [LB873]

PRESIDENT FOLEY: Senator Quick, would you yield, please? [LB873]

SENATOR QUICK: Yes, I will. [LB873]

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SENATOR HILGERS: Thank you, Senator Quick. Can you speak a little bit to the Omaha experience, maybe first starting with how the land bank board has been set up in Omaha? Who is on the land bank? Is it called a land bank board? Is that what it's called? [LB873]

SENATOR QUICK: Yeah, it would be a board. [LB873]

SENATOR HILGERS: Who is...do you know how many individuals are on it? And I don't need...you don't necessarily need to name all the names, but how many individuals are on the board in... [LB873]

SENATOR QUICK: There are seven voting members and then currently there are three nonvoting members. There is an ex officio member, which is usually a planning director, and then there's an acting secretary. [LB873]

SENATOR HILGERS: And thank you, Senator Quick. So then the voting members, or all the members, I guess--so I counted 11 plus the secretary--are they all appointed by the mayor? [LB873]

SENATOR QUICK: No. I think...I believe it's only the voting members are appointed by the mayor. And then, I'll be honest, I'd have to look to make sure on the nonvoting members how they get on the board. [LB873]

SENATOR HILGERS: Okay. And do you know how long the terms are for the voting members? [LB873]

SENATOR QUICK: I think they're on there until they resign or they're...you know, if they would step down. I don't believe this is, you know, like a two-year cycle. [LB873]

SENATOR HILGERS: Are they able to be, if you know, are they able to be fired by the mayor? [LB873]

SENATOR QUICK: That I can't answer. I'd have to find that out. [LB873]

SENATOR HILGERS: Do you know...thank you, Senator Quick. I appreciate the answers to these questions. I had a couple more about the land bank's...the board's budget. Do you know how big the budget is for the land bank in Omaha? [LB873]

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SENATOR QUICK: I don't know the exact number, but I know that it would be quite large because I know they've had a lot of money contributed or donated to them to...for operations of the acquiring property and actually running the day-to-day business of that. [LB873]

SENATOR HILGERS: Do you know...so I take it that there is a portion certainly of the funds that are earmarked or used to purchase properties. Is that right? [LB873]

SENATOR QUICK: Yes. [LB873]

SENATOR HILGERS: And then there is some I guess that will be used just for operating expenses? [LB873]

SENATOR QUICK: Some that's used for operating expenses, you know, and some of the properties are actually donated, too, as well, or gifted to them. [LB873]

SENATOR HILGERS: Is there...for properties that are donated, are there...is there any tax benefit for those who donate the properties, do you know? [LB873]

SENATOR QUICK: I do not believe so. [LB873]

SENATOR HILGERS: And do you know how...so just focusing on the operating portion of the budget--so not the portion of the budget used to purchase the homes or the property themselves--how much...do you know how large the operating budget is for the land bank? [LB873]

SENATOR QUICK: I do not. [LB873]

SENATOR HILGERS: Do you know how many property...oh, thank you, Senator Quick. Sorry. I... [LB873]

SENATOR QUICK: Yeah. [LB873]

SENATOR HILGERS: ...was taking notes. Do you know how many properties that Omaha has purchased since the land bank has been in place? [LB873]

SENATOR QUICK: I have here that since--and this is a report they've given out--since the last report, December of 2016, we sold 51 properties: 38 properties were to Habitat for Humanity, 12 properties were private owners, and 1 to the city of Omaha for redevelopment, so. [LB873]

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SENATOR HILGERS: Thank you, Senator Quick. Are there...to purchase those properties... [LB873]

PRESIDENT FOLEY: One minute. [LB873]

SENATOR HILGERS: Thank you, Mr. President. To purchase those properties, do you know how...did the city of Omaha Land Bank actually go into any specific indebtedness through private financing or otherwise to pay for those properties? [LB873]

SENATOR QUICK: I know that for some things they have to go to the bank and apply, they use credit. But I don't believe...you know, that would be the only indebtedness, but they have to have the funds to back that up as well. [LB873]

SENATOR HILGERS: Okay. Thank you, Senator Quick. Thank you, Mr. President. [LB873]

PRESIDENT FOLEY: Thank you, Senator Hilgers and Senator Quick. Senator Quick, you're recognized. [LB873]

SENATOR QUICK: Thank you, Mr. President. I thought I might just talk a little bit about the history of the board and kind of how it's made up and, of course, I guess we already addressed the fact that the legislation was passed in 2013, LB97, and it was unanimously voted on by this Legislature and signed by Governor Heineman and it included the Omaha and cities of Douglas and Sarpy County. And then in 2014, the city of Omaha city council passed and voted to approve the land banks. There are seven voting members on the board from each...and has to be represented for each precinct within the city, district, or ward and is appointed by the mayor and confirmed by two-thirds vote of the governing body, which is the city council. The board experience comes from the area of expertise; they come from the Chamber, banking, real estate developer, realtor, nonprofit, or affordable housing, and large-scale residential or commercial property rental. And one person can satisfy more than one of these experiences on the board. So, and the land banks also give the neighborhoods a voice in the community and the development of that neighborhood and they also have to follow the Open Meetings Act. There's 11 criteria. When you're acquiring the property, they have to follow a criteria, so, and it has to meet more than one of the criteria under the property. And that could be that they were boarded up or they were deemed unfit to live in or that there were...you know, the vegetation had grown up too high or those type of things. There's also they can attain the property by...because of tax delinquency. And one of the first things they do after they acquire their property is they clean and secure it to make sure that that property is safe. You find with some of these properties that there are people that have decided to squat on the property. So they're living in the house unbeknownst to anybody else and they're not supposed to be living in these properties. And some of these

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properties are pretty run down so it's unsafe for them to be there, for starters. The city of...also, the land bank can only acquire 7 percent of the total properties within that community. So let's...you know, if you have 1,000 properties, you know, and that's all you have in your community, they can only have, what would that be, 7 percent...or 7...7 properties...or 70 properties. So they can only acquire 7 percent of the total properties. They can only rent it for up to one year. They can sell or gift the property to a nonprofit. Because they have gifted properties that have been gifted to them, they have given to Habitat for Humanity or other nonprofit developers. You can sell the property to a nonprofit or developer or a private owner to renovate. And one of the best things about this that I like and I think it's...really the city of Grand Island I think would benefit from this and they've talked to me about wanting to create a land bank. But it improves the neighborhoods. So you have maybe one or two properties within that neighborhood that are run down and if they can acquire that property and then they have it redeveloped and then it adds value to that, not only to that home, but to that whole neighborhood. The people feel safer, they feel...they have...it's brought up some of their values on their homes as well. So in essence it's increased the property tax revenues by renovating these properties. It also creates jobs for the developers. You have people that are renovating these homes. [LB873]

PRESIDENT FOLEY: One minute. [LB873]

SENATOR QUICK: You also have a public-private partnership because most of the people that are donating to this come from the private sector and also you have the developers who are from the private sector. You have people on the board who are from the private sector. They're watching out over these projects to make sure they're done right. It also can reduce the cost to the counties by paying for all fees associated with foreclosures and clearing title. Some of these properties that have been...say someone bought the tax certificate and then decided, you know, they collected their 14 percent over the years and then let that property just sit there, they didn't want to invest in demolition or maybe renovating the property. So the land bank can acquire that, pay for all the clearing of the title, get it...you know, secure it, and then get it on to a developer to be brought back onto the tax rolls. Now... [LB873]

PRESIDENT FOLEY: Time, Senator. [LB873]

SENATOR QUICK: All right. Thank you, Mr. President. [LB873]

PRESIDENT FOLEY: Thank you, Senator Quick. Mr. Clerk. [LB873]

CLERK: Mr. President, the Retirement Systems Committee will have an Executive Session at 2:30 in Room 2022. Thank you.

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PRESIDENT FOLEY: Thank you, Mr. Clerk. Continuing discussion, Senator Bolz. [LB873]

SENATOR BOLZ: Thank you, Mr. President. Is Senator Thibodeau on the floor? If Senator Thibodeau is in hearing distance I'd be curious to ask you a question. Very pleased that the senator brought up one of my favorite subjects, which is quality in early childhood education. I know it's one of her favorite subjects, too, and I just wanted to address one of the questions that she raised on this bill, which relates to quality assurance in the investments of the early childhood programs contemplated in this legislation. And I would draw everyone's attention to AM2065, page 6, lines 1 through 20, which outlines some of those...which I think, very strong quality assurance provisions. It references that qualifying child-care organizations would use definitions related to the Step Up to Quality Child Care Act, the Sixpence Early Learning Fund, and Head Start. And my first year in the Legislature we passed the Step Up to Quality program and we've got some really wonderful evaluation data post the passage of that program that illustrates that providers are not only participating in this program and utilizing the opportunity to develop quality improvement plans, but they are embracing them. The providers opted for supports that grew the quality of their staff, learning environments, and administration. More than half of providers chose supports to help them expand professional development. Providers participated in coaching opportunities, and they consistently moved up rating scales through the Step Up to Quality program. Similarly, the Sixpence program, which is another quality indicator that is a part of this piece of legislation, has some clear evaluation components to it. So one of the things that I think is great is the Munroe-Meyer Institute, which is pretty prestigious and doing a wonderful job here in the state of Nebraska looking at a number of developmental issues from an academic and research perspective, they are the ones who evaluate each Sixpence-funded program on an annual basis and the evaluation is: major program structure and performance, parent engagement, children's development outcomes, and health. And so the question that I would have asked Senator Thibodeau had she been on the floor is, is there something more or is there something additional that we can or should incorporate into these quality measures or anything that we could do to strengthen the bill, because I think there is a shared interest and a shared investment in making sure that our state dollars are going towards the best quality programs, not only because that's good for kids, but also because that has lifelong impacts not only on those children and their social-emotional development, but also on the education system as a whole. So I think this is an opportunity and if there are other provisions or other things that she has expertise from the field on, I think we should try to incorporate them in. The last point that I would make is that one of the things that is reviewed by Sixpence is the economic impact. And I think we've all had some shared interest in the economic influence of work force development. It's something I talk about on the floor a lot as well. And access to childcare is something else that has an influence over economic development. Especially in rural communities, that can hold people back from fully participating in a job or participating full time or picking up a second job. And so I do think that the quality measures in this piece of legislation are sound. I do think that they're being appropriately evaluated and I do

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think that they are a pretty high standard. But I would be curious if there are any other standards that should be incorporated so we can incorporate them. In the meantime, I do support both this piece of the bill and the bill as a whole. Thank you, Mr. President. [LB873]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Wayne, you're recognized. This is your third opportunity at this level of debate, Senator. [LB873]

SENATOR WAYNE: Thank you. Thank you, Mr. Speaker. I just wanted to clarify that the issues that are being brought up about the land bank, they're already in current statute. They're currently in statute and applies to Douglas and Sarpy Counties and the municipalities in Douglas and Sarpy County. They're currently in statute. And, in fact, our current statute allows the Omaha Land Bank to enter into any agreement across the state. So we could still do what we want to do technically through interlocal agreements. We can work with the city of Lincoln and create a land bank. It will just be the Omaha Land Bank in Lincoln. We're trying to set parameters around local control. To Senator Erdman's point, there are current statutory bodies that do the same thing: housing authority and, yes, you have one in your district; the airport authority. They're able to do all the things--except not all of them--but all the concerns you had currently. This is not a new concept in statute. Yes, they can take out bonds. But those bonds have to be collateralized by the property or the revenue brought from it. No taxpayer is on the hook because they have no taxing authority, so this is a little bit different idea. For the remainder of my time, if somebody wants to ask me questions, I will yield you time to ask me questions. So if you have questions and want clarity on the land bank, I have no problem. I'm looking around seeing if anybody wants to ask me a question. As to Senator Hilgers' point, they serve a term of three years on the Omaha Land Bank. They are appointed by the mayor and consent by city council and, yes, they can be removed by the mayor during that three years. If you can be appointed, you can be removed. So there are checks and balances. So again, I will look around to see if anybody wants me to yield them time to ask me a question. I don't see anybody. Oh, Senator Clements. Will Senator Clements... [LB873]

PRESIDENT FOLEY: Senator Clements, will you yield, please? [LB873]

SENATOR CLEMENTS: Yes. Thank you, Senator Wayne. I was curious about how the land bank acquires the properties they purchase on the open market. Is it by talking to the owner, is that it? [LB873]

SENATOR WAYNE: These are tax delinquent properties so they purchase what they would do on the open market. They can enter into purchasing agreements for some property that is also in the development or they can enter into agreements, but most of them are purchased on the delinquent market where they currently are not on tax rolls. [LB873]

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SENATOR CLEMENTS: I was wondering if this land bank board has eminent domain authority to just take property. [LB873]

SENATOR WAYNE: No, they do not. [LB873]

SENATOR CLEMENTS: All right. Thank you. [LB873]

SENATOR WAYNE: Anybody else want to ask me questions on my time? Senator Erdman. [LB873]

PRESIDENT FOLEY: Senator Erdman, would you yield, please? [LB873]

SENATOR ERDMAN: Yes. Thank you, Senator Wayne. Senator Wayne, just a comment before I ask you a question is, the airport authority board in my area is elected, not appointed, so just so you know that. So they buy these properties and I listed...I seen the list of what they can buy the properties...what criteria they have to have. And if I went to page 238 and started there it says, meets more than one of the following and lists a whole bunch of things. I can conclude from that document that just for about any reason at all, as long as for community good, would that be a fair thing to say? I said, according to that description of what the properties have to be like before they can buy them, just about anything at all could qualify for them to buy the property if they deemed it to be for the community good. Is that correct? [LB873]

SENATOR WAYNE: No. This was actually a list that was created from Senator Mello and actually the private market,... [LB873]

PRESIDENT FOLEY: One minute. [LB873]

SENATOR WAYNE: ...the tax certificate people who buy these taxes. And this was list that they came up with to feel that the private investor can still compete and still operate and they would be a last resort as far as a land bank, so not just anything. [LB873]

SENATOR ERDMAN: Okay. So those first three clean-up bills that you have are probably pretty important to your committee? [LB873]

SENATOR WAYNE: All these bills are important to my committee. [LB873]

SENATOR ERDMAN: Well, if we can...if... [LB873]

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SENATOR WAYNE: And more important than my committee, it's important to your district and every district... [LB873]

SENATOR ERDMAN: Okay. [LB873]

SENATOR WAYNE: ...who deals with vacant property and dilapidated property. [LB873]

SENATOR ERDMAN: Right. So if we did not advance LB854, they could still do this? [LB873 LB854]

SENATOR WAYNE: The way the bill is right now, if this amendment did not pass, they would not be able to create...well, yes, technically. Me being an attorney and reading the law, there's nothing stopping... [LB873]

SENATOR ERDMAN: Okay. [LB873]

SENATOR WAYNE: ...the Omaha Land Bank from entering into an interlocal agreement. [LB873]

SENATOR ERDMAN: Yeah. All right. [LB873]

SENATOR WAYNE: But I'm sure your district doesn't want Omaha telling people what to do with their property. [LB873]

SENATOR ERDMAN: But they could still do that. [LB873]

SENATOR WAYNE: No. [LB873]

SENATOR ERDMAN: They could. [LB873]

SENATOR WAYNE: They could, but wouldn't you want to have local control? Wouldn't you want to have your district to decide what's best for them? [LB873]

PRESIDENT FOLEY: Time, Senators. Thank you, Senator Wayne and Senator Erdman. (Visitors introduced.) Continuing discussion, Senator Geist. [LB873]

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SENATOR GEIST: Yes, thank you, Mr. President. And I wonder if Senator Quick would yield for a question, please? [LB873]

PRESIDENT FOLEY: Senator Quick, would you yield, please? [LB873]

SENATOR QUICK: Yes. [LB873]

SENATOR GEIST: Senator Quick, and first let me apologize to you for not asking you this off the mike first. I try to do that and I did not, so I apologize for that. But this isn't...it shouldn't be difficult. So in LB768, are the economic development grants for early education infrastructure available for private providers of early childhood education? [LB873 LB768]

SENATOR QUICK: Both public and private. [LB873]

SENATOR GEIST: Public and private? And you're okay with that? [LB873]

SENATOR QUICK: Yes. [LB873]

SENATOR GEIST: Okay. And actually, Mr. President, that concludes what I had to say. I'm not very good at elaborating over and over and over what I have to say. So, I could yield my time to Senator Wayne if he would like to take the rest of my time. And he waives that off, so I am done. Thank you, Mr. President. [LB873]

PRESIDENT FOLEY: Thank you, Senator Geist. Senator Erdman. [LB983]

SENATOR ERDMAN: Thank you, Lieutenant Governor Foley. Good afternoon again. Senator Quick, would you yield to a question, if you would? [LB873]

PRESIDENT FOLEY: Senator Quick, would you yield, please? [LB873]

SENATOR QUICK: Yes. [LB873]

SENATOR ERDMAN: Senator Quick, do you have a copy of the amendment there in front of you? [LB873]

SENATOR QUICK: No, I do not. [LB873]

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SENATOR ERDMAN: Okay. Well, let me read what it says here on page 240, line 26. It says, to provide foreclosure prevention counseling and rehousing assistance. Are we going to start...do we start a counseling business with this bill? [LB873]

SENATOR QUICK: I don't know if I can answer that at this time, if I can...what...where is that at again in the... [LB873]

SENATOR ERDMAN: Page 240, line 26. It's under (i). [LB873]

SENATOR QUICK: So what they do on the...I don't know how that counseling works, but I know what they do right now is, they can provide for if someone...for foreclosure on a house, they'll help with all those proceeds to help with that and also with clearing the titles so that house could be redeveloped. And so if the developer would need...I'm going to guess with the developer, if they would need assistance with that, they could provide that assistance. [LB873]

SENATOR ERDMAN: Okay. So are they going to have counselors on staff to do that? [LB873]

SENATOR QUICK: I don't think it's a counselor as you think like a counselor in a...I think that is...that's what they're going to provide for all the communities that want to be part of a land bank, too, you know, if...say that your community wants to start one, but you don't know how to do it. They can tell you how this is going to work and how you can set it up for your community. [LB873]

SENATOR ERDMAN: Okay. Maybe it means something different than what it reads. It says to provide foreclosure prevention counseling and rehousing assistance. I understand what rehousing assistance may be--they may give them some money to find another house--but foreclosure prevention counseling means helping somebody understand something or working through something. I'm just wondering if we're starting...and I know Senator Wayne had alluded to the fact that this is already statute. I understand that. But I'm just...I never had looked at the land bank before until this bill came out and when Senator Wayne sent out his information I began to review this over the weekend. And I seen those things and it just seemed kind of peculiar to me that we may be starting a foreclosure prevention counseling deal. I'm not sure. [LB873]

SENATOR QUICK: I don't believe that's what it's doing. [LB873]

SENATOR ERDMAN: I think if they can do this now with an interlocal agreement, let them do it and we'll see how it goes. Thank you for your time, Senator Quick. I appreciate it. [LB873]

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PRESIDENT FOLEY: Thank you, Senator Erdman and Senator Quick. Senator Hilgers. I do not see Senator Hilgers on the floor at the moment. We'll move on. Senator Williams. I do not see Senator Williams. Senator McCollister. [LB873]

SENATOR MCCOLLISTER: Good afternoon, Mr. President. Good afternoon, colleagues. I rise in support of this bill, particularly the LB854 portion of the bill. The land bank operation in Omaha has worked exceedingly well. When you can take old, dilapidated housing, demolish it, and recycle that property, I think it is a great thing for any city, regardless of size. I understand that Crawford, Nebraska, a small city, they have 200 dilapidated houses that need to be "rehabed." And that town is starting to wonder what the heck they're going to do if they can't get rid of this housing that is falling down and dilapidated. So any town, regardless of size, needs to do this. I will also say that Omaha has benefited greatly from this. The properties that we've taken care of were in terrible shape. So Omaha has done it successfully and I think we need to enable the rest of the state to do it as well. Thank you, Mr. President. [LB873 LB854]

PRESIDENT FOLEY: Thank you, Senator McCollister. Senator Wayne, if you're on the floor, you may close on the committee amendment. Looking to Senator Wayne to close. [LB873]

SENATOR WAYNE: Thank you, everyone. This has been a good debate. These are the kind of conversations I hope we continue to have. I know we've been here quite a bit this session already and talked about a lot of things, but this is truly a bill that allows us to figure out and give tools to allow local control to facilitate the issues of their property. With that, I'll finish. [LB873]

PRESIDENT FOLEY: Thank you, Senator Wayne. Members, you've heard the debate on AM2065, committee amendment. The question before the body is the adoption of the committee amendment. Those in favor vote aye; those opposed vote nay. There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please. [LB873]

CLERK: 23 ayes, 1 nay to place the house under call, Mr. President. [LB873]

PRESIDENT FOLEY: The house is under call. Senators, please return to your desk and check in. The house is under call. Unauthorized personnel please leave the floor. The house is under call. Senator Wayne, when all the members are present, it would be your option to accept call-in votes or a roll call. [LB873]

SENATOR WAYNE: Roll call. [LB873]

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PRESIDENT FOLEY: Very well. We'll wait for the members to arrive and we'll do a roll call. Senator Hilgers, if you could check in. Senator Kolowski, if you could check in. All unexcused members are now present. The question before the body is the adoption of the committee amendment, AM2065. A roll call vote has been requested. Mr. Clerk. [LB873]

CLERK: (Roll call vote taken, Legislative Journal pages 1036-1037.) 27 ayes, 14 nays, Mr. President, on adoption of committee amendments. [LB873]

PRESIDENT FOLEY: Committee amendment is adopted. I raise the call. Continuing discussion on LB873. Senator Hilgers. [LB873]

SENATOR HILGERS: Thank you, Mr. President. Good afternoon, colleagues. I voted no on the underlying committee amendment in hopes of not voting no for all of the pieces of the amendment, but we were waiting on an amendment coming from the Bill Drafters that did not come fast enough. And the...what we are looking at and the reason why I voted no relates to the land bank bill that was put into this omnibus bill. It was the bill that I had the conversation with Senator Quick and others about. And the reason why we...at least, certainly why I oppose it is that I believe that this sort of putting this kind of authority and power in unelected individuals who are engaging in private enterprise is not something that we ought to be authorizing local municipalities to be able to do without significant strict safeguards or without some long enough period of time with which to actually test this. So I understand that a few years ago--and this is the conversation I had with Senator Quick--that the Legislature allowed a limited--call it a pilot program--a limited ability for Sarpy County along with the city of Omaha to create this land bank program. And as I spoke with Senator Quick and we heard on the floor, there are seven voting members on this particular committee. There's an operating budget. These individuals are not...they're appointed by the mayor, there's no term, they're not elected, they're not subject to recall and they are engaged in private practice, private enterprise, the ability to purchase properties, to sell those properties, engage in what individuals do in the private sector on a day-to-day basis. Philosophically, principally, I do not believe we ought to be in the business of allowing cities or other governmental agencies to get involved in that kind of free enterprise market except in some limited circumstances. And proponents of this bill would say, well, you know, I think it's...you know, Omaha has done a very good job and so this is something that we ought to be able to expand statewide. And I...I don't...I agree and I don't agree. It very well might be true that Omaha has done a pretty good job and I think from early accounts that it has had some successful, positive outcomes in Omaha. Unfortunately, though, I don't think we have...this has been a long enough period of time in which we can determine whether it is the structure of the law itself or just some excellent leadership that we just happen to have in that particular executive director in Omaha to lead to the positive outcome. I don't think we have enough data yet to be able to understand it, whether that's the case. And I think we ought to be very reluctant to take a system that has worked to some degree, and whether it will work over the long term I

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think is uncertain, and be able to apply that across the state of Nebraska, because the experience in Omaha is not necessarily the experience in Lincoln, it's not necessarily the experience in Grand Island or Kearney or the like. And what we're doing, we're empowering individuals and government around the state to get involved in private enterprise, purchasing properties, selling properties and I think that we ought to be very careful before we do that. So I...procedurally, I don't oppose all of LB873. There are aspects of it that Senator Wayne and I discussed, some clean-up portions of the bill that I certainly can support. And the other two substantive bills, I'm still listening to the debate on. But as it relates to this portion of LB873, which is I believe...the amendment of LB854 into this bill, I cannot support that. Now, had we had the amendment beforehand, I think we could have had a vote on that particular piece. If it would have failed, then the rest of the bill I suspect...or at least the majority or most of the bill I think would have gone on. But now that that amendment did not occur, at least at this juncture, we're faced with a bill...a vote on the underlying bill itself. I would suspect that there will be an amendment forthcoming to carve out that portion of LB873. We'll see what happens. But for now, colleagues, I cannot support this bill as drafted because of its inclusion of LB854 and I'd urge you to vote red on the bill. Thank you, Mr. President. [LB873 LB854]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Krist. [LB873]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, colleagues. Good afternoon, Nebraska. I wondered if Senator Hilgers would come to the mike and answer a few questions. [LB873]

PRESIDENT FOLEY: Senator Hilgers, would you yield, please? [LB873]

SENATOR HILGERS: I would. [LB873]

SENATOR KRIST: Did I understand your comments to be based upon putting a great deal of power, potentially financial interest, in a nonelected board? Is that your concern? [LB873]

SENATOR HILGERS: In part, yes. [LB873]

SENATOR KRIST: But is it a large part of your concern or...? [LB873]

SENATOR HILGERS: Well, it's the ability of...not just the ability for an unelected board to spend state monies or taxpayer funds, Senator Krist. It's their ability to purchase property and get engaged in what otherwise would be a free market enterprise. [LB873]

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SENATOR KRIST: Okay. Thank you, Senator Hilgers. Colleagues, I hope you're listening to this because this is throwing stuff against the wall to see if it will stick. We have several really good examples of airport authority boards all over this state that deal with buying and selling property, investing large amount of money in making sure that our commercial air and our air traffic flows the way it needs to, those facilities who are in place that are able to refuel and fix airplanes around the state, and guess what? Lincoln Airport Authority is probably the only anomaly I can recognize in terms of a large structure that are elected. Most of the rest of them are appointed. The mayor appoints. The community appoints. By community, I mean the local council. If you're trying to poke holes in a particular issue and you're saying that our nonelected officials across the state that are appointed by our elected officials and are held to a standard by local control, by those elected officials is not adequate, then start writing the statutes, because you can just start eliminating a lot of really dedicated businesspeople who run their own operation, are millionaires, billionaires, who are doing great work across this state, and some not so wealthy-- don't get me wrong--some people that just love aviation in the example that I've just given you. So let's focus on really what's at stake here. I'm not entirely 100 percent sure of the land bank issue. I know that it's worked extremely well in Omaha. And if you don't want it in another part of the state, again, we come down to the same issue. There is that divide. What's good here may not be good there. Well, you don't have to use it, but the tool will be there. Let's be careful who we're throwing under the bus. Thank you, Mr. President. [LB873]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Hilgers. [LB873]

SENATOR HILGERS: Thank you, Mr. President. Good afternoon again, colleagues. As I took Senator Krist's point, I think what he said was I think he used a specific example of airport authority. And I believe in Lincoln, I believe...I can't remember if I voted for Senator Wishart, if she was in my district or not, but I believe it's an elected position here in Lincoln. And I think the...my point is not that there could be in some circumstances individuals who have significant business experience, who are good stewards of taxpayer funds who on an unelected basis can do good things. I don't think my argument is...I haven't...I didn't state that earlier on the mike and I'm not stating it here today and it certainly isn't throwing anything on the wall. My argument is not that we should never under any circumstances ever say that unelected people ought to be able to a) spend taxpayer dollars or b) get involved purchasing property or competing in private enterprise. That's certainly not my argument. What my argument is, is that we ought to think very, very, very carefully about allowing those two things to take place, because it may very well be that in some instances it works out well. But it also very well may be and I would submit that in the most cases, we ought to be very careful without accountability safeguards in place to ensure that this isn't abused or there isn't a misuse of taxpayer funds. The most direct and cleanest way of ensuring accountability is through an election, which I believe we do for our airport authority and other elected bodies. We tend to be very careful with spending dollars through those who aren't directly elected or directly accountable to the public. But the second

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portion of this...so that's one piece. One piece is just this idea that we ought to allow unelected individuals to spend taxpayer dollars. That doesn't...it doesn't...it isn't the case that that never occurs, but certainly I think we ought to be very careful before we allow it. But there's a whole nother aspect to this, which is this idea that we have a commercial marketplace for property. There are private entities that buy property, they sell property, they finance property. And what this would do would essentially allow for a significant expansion of municipalities' ability to get into that marketplace. And I think that, too, is something where we ought to tread carefully. It is true that cities do...they do have some...they certainly own property, they can sell property. The county here in Lancaster County does sell property. And that's okay, there's no problem with that. But what we're talking about is imbuing an unelected board who have ties throughout the community, maybe business ties, maybe real estate ties, maybe just ties with others in the community with whom that they...who have an interest in the purchase or sale of property, getting involved with spending taxpayer dollars in this way, and I think we ought to be careful with it. Now, Omaha has had a circumstance that has...I think early indications at least are that it's worked out okay, but we're only three years into this experiment. And Omaha, again, has an executive director who, by all accounts, has done a good job. But is that something that can be replicated across the entire state? I'm not sure I've heard the answer to that question. What I've heard is, let's just allow it, it's a good thing, people can use it for good, so let's do it. I don't think, when it comes to allowing unelected individuals spending taxpayer dollars or competing with private enterprise, that that's the standard. That's my philosophical view. I think we ought to have a much higher burden to show that this is a genuine need and it ought to be narrowly tailored with specific evidence and argument to show that there are very firm guardrails in place and that this can't go off the rails. And I haven't heard that yet today and that's why I oppose LB873. Thank you, Mr. President. [LB873]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Erdman, to be followed by Senators Larson, Krist, Williams, and Geist. Senator Erdman. Oh, excuse me, Senator Erdman. Mr. Clerk, I'm sorry. No. Mr. Clerk. [LB873]

CLERK: Mr. President, Senator Larson would move to indefinitely postpone LB873. [LB873]

PRESIDENT FOLEY: Senator Larson, you're recognized to open on your motion. [LB873]

SENATOR LARSON: Thank you, Mr. President. I think there's been a lot to start a base when it comes to discussing LB873. I was under the anticipation that there was going to be a division on the committee amendment. That didn't happen and I understand why. But I think that would have been preferable, specifically when we're talking about a number of different things within LB873, including the land bank provision. I think Senator Hilgers brings up some excellent points when it is LB873 when it comes to unelected members on an unelected body dealing with

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taxpayer money. I think that LB873, specifically with the land bank portion, allows for very broad powers. The stated intent of the bill is to fix properties and return them to productive use. However, the bill goes beyond what is stated intent. It allows cities to convey property for the use of public spaces, community gardens, wildlife conservation areas, and it doesn't relate to fixing tax-delinquent properties and getting them off the tax roll...or getting them back on the tax rolls. It allows the issue of debt and bonding by...as I said, the bill allows for the issuance of debt and allows for the land bank to bond without a vote of the people. That specifically reminds me of something that is happening in my local community in which a school district had a school bond fail a few years ago and then now, because they are within significantly under the \$1.05 levy, they are using their building fund to go in and essentially build a whole new part of the school, a new gymnasium, auditorium, classrooms, and a number of other things, after a school bond failed and still do everything they wanted, a \$15 million improvement to the school, without a vote of the people. I have had serious problems with things like that in the past on this floor as well, when I went into the Corn Board and how an unelected body has the ability to tax corn producers and they don't have the opportunity to request a refund and they don't get to vote for who those board members are. They are just appointed members. I find that to be a problem. These people are levying a tax on farmers without the ability to be recalled, voted out, a number of other things. So I guess that portion specifically of LB873 now is bothersome. It increases government and decreases transparency. A land bank has its own board, and, although it is subject to public meetings act, land transactions have customarily gone through the city council's public process. Putting another governing body in place would just complicate the process, reduce transparency, and makes it more burdensome for taxpayers to follow how the government is spending the money. It decreases...there's a question of accountability to elected officials. Members of the land bank are appointed, not elected, which means they are not accountable to taxpayers, even though the decisions they make directly affect them. Again, like I said, I have a history of opposing these things. I just brought up the Corn Board and my problem at the Corn Board specifically has a group of individuals that are appointed by a Governor that have the ability to levy and raise taxes on corn producers. And those corn producers don't have the ability to, one, vote those people out, or decide not to pay that tax. I think a couple years ago, in one of my more infamous filibusters, put it towards the...or compared it to the Stamp Act of 1776 (sic--1765). It has the ability to purchase any property for any reason. Any residential, retail, commercial, or industrial property may be purchased by the land bank. The bank is only required to meet one simple criteria: buying the land will serve in the interest of the community, or the property is not occupied. It competes with the private sector. This bill allows land banks to hold land, collect rent, lease, and sell land with the benefit of being exempt from paying taxes. At the same time, the private sector is trying to do the same thing, but has to pay the taxes. Therein lies another issue with this. I think Senator Erdman talks all the time about property taxes. In Revenue Committee we just voted out LB947. It continues to work towards solving the property tax problem. Does it go far enough? Probably not. Does it make progress? Yes, it focuses on a broad spectrum of things. But in the end, we have to be very careful of the competitiveness

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factor and do we want government or nonprofits competing with the private sector, specifically in areas such as this? And I'm not sure that we do. As I just talked about, it possibly decreases the property tax base. Land banks decrease the property tax base by purchasing land which immediately goes off the tax rolls, puts more pressure on the private sector because it ends up being the ones that bridge the tax gap. Colleagues, that is a true problem moving forward. Senator Harr is getting in the debate. Thank you, Senator Harr. Colleagues, I would like to see this portion come out moving forward, and then LB873 can move on. I'm sure we're going to have a lengthy debate for another hour to see where we're at, and then we can move on. But I would assume that this goes for another hour. And we can continue moving forward with LB873 and hopefully and the rest of the agenda. But I do have serious concerns, I'm sure we'll hear some concerns from others in support for the bill as well. And I appreciate your time and your support of MO275. [LB873 LB947]

PRESIDENT FOLEY: Thank you, Senator Larson. Senator Erdman. [LB873]

SENATOR ERDMAN: Thank you, Lieutenant Governor. I listened to Senator Krist, and he made his comment about the airport authority. The one that I'm familiar with is an elected position. He also said that they spend a lot of money and buy property, and that is correct, but they don't compete with the local person who develops property and resells it. Their goal is to make safe air travel, and to make sure that the airport is efficient and succeeds in what they are to do. So there's a total difference between the airport authority and those people who buy rental properties or improve properties. So that's a huge difference. We haven't talked much about LBLB768, and the one that the bill in this Christmas tree cluster that bothers me as much as LB854 is LB880. And when a city does their comprehensive plan, they have to include early childhood education. The city has enough to do just to redo their comprehensive plan. I don't understand why we need to put a provision in their comprehensive plan about early childhood education. They should leave that to the school, and the school will handle the education. The city is in charge of running the city, and the school is in charge of educating kids. So there's a problem with LB880 as well. LB768, not sure that bill is needed. In fact, I don't believe it is. It's picking winners and losers and we do a good job of that in government. So all three of those bills, LB768, LB854, and the other bill, LB880, all of those bills in my opinion should have been taken out of this bill. And I don't have any problem with the cleanup bills that were in place. And I think the Urban Affairs Committee, if they would have brought those first three, we would have had this done with and we would be moving on. But I'm not in favor of those last three bills that I just described, and so I will be voting no on the bill if we get that far. But I'm going to vote indefinitely postpone, unless we do an amendment to drop out those other three bills. Thank you. [LB873 LB768 LB880 LB854]

PRESIDENT FOLEY: Thank you Senator Erdman. Senator Larson. [LB873]

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SENATOR LARSON: I will withdraw by my IPP motion because I think there's an amendment on the floor that would do what I wanted. Thank you. [LB873]

PRESIDENT FOLEY: The IPP motion is withdrawn. Mr. Clerk. [LB873]

CLERK: Excuse me, Mr. President. Senator Geist would move to amend with FA122. (Legislative Journal page 1037.) [LB873]

PRESIDENT FOLEY: Senator Geist, you're recognized to open on FA122. [LB873]

SENATOR GEIST: Yes, thank you, Mr. President. And what I'm doing is just striking that bill on land banks from the original amendment. So there you go. Thank you. [LB873]

PRESIDENT FOLEY: Thank you, Senator Geist. Debate is now open on FA122. Senator Krist. [LB873]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, colleagues. And good afternoon, Nebraska, again. This is one of those issues. I just talked to one of my learned, scholarly colleagues who I respect his opinion deeply, who said there's a big difference between Omaha and the rest of the state. And I appreciate that awareness, because we don't want this taken away from us. So in no way would I support a movement that would take that process away from Omaha. I do know, however, that Senator Geist, I think, is from Lincoln, Senator Hilgers is from Lincoln, and I believe that Lincoln would love to enjoy the possibility of land banks, and I think they are of the size. And I'm not saying that as a belief, I'm saying it as I know for a fact they would, the people that you represent, the folks who are elected by the people that you represent, would like to have that capability in Lincoln. So I think you should listen to your constituents and at least give it a chance to talk about. And if the rest of the state doesn't want to do it, I guess it's kind of like juvenile justice and getting representation for kids--do what you want to do. We will continue to treat our kids and our land banks different than you will, and we'll move forward and all be happy, kumbaya. I do want to mention, though, that I think Senator Hilgers was listening to half of what I said. I was very clear in the fact that I'm very proud of the airport authorities all over the state that do have people who are not elected, that do a great job at what they're doing, and I did recognize that Lincoln is one of those municipalities, cities of the first class, that does have an elected representation. And Senator Wishart was...represented her constituents on the Lincoln board extremely effectively. And I think if we check the records, I think that...check the transcript, that's exactly what I said. I have a serious issue with the comments that have been made on this floor about volunteers and appointees at all levels. And I think you should...when you make those kind of comments, I think you should, if the next words out of your mouth in any subject matter is "local control," I think you should suck those words

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back in because the epitome of local control is for a locality to be able to say I'm going to put you on this board and I know you will do a good job, because you are a successful businessperson and you have done a great job at what you have done. And if that doesn't happen, I will take you out as fast as I put you in there. That's what my father used to say. I gave you life, I will take it away. And I think you have to have a provision there that says, I'm going to appoint you to do that job, and if you don't do that job I will appoint somebody to take your place. But again, it's local control. It's nothing but local control. I admire the fact that we're not taking all the bills down after one. Just don't touch Omaha. Leave us alone. We like our programs. With that, I'd yield the balance of my time to Senator Wayne, if he would like it. [LB873]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Wayne, 1:50. [LB873]

SENATOR WAYNE: This is why I ran for office, to love to have policy debates and talk about how we can move Nebraska forward. I just want to clear up some facts. For those who think that this appointed board is dealing with tax dollars, they are factually incorrect. There are no tax dollars going here. What this is, is property that nobody else wants to buy, that is currently not on the tax rolls. They are in tax liens. That means they are not paying their taxes for two to three years. There is no appropriation from the Nebraska Legislature. [LB873]

PRESIDENT FOLEY: One minute. [LB873]

SENATOR WAYNE: There is no appropriation mandate from Lincoln City Council or the county. This is truly money that they can generate, and we are giving them a way to generate money without using tax dollars. That's what that 50 cent...or 50 percent carry is. So the Omaha Land Bank receives a little bit of money from Omaha, but the rest of it they either privately raise, which is why we gave them a tax-exempt status three years ago, or offer the property they put back on the market, i.e., sell. They sell it, it goes back on the market, back on your local property rolls, and that's how this whole process works. So when you get up and say we are having an unelected board use our tax dollars, I expect that from some of my colleagues, but I didn't expect it from the ones saying that today. We read the bills, we know what the bills do, especially in our background. [LB873]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: Time, Senator. [LB873]

SENATOR WAYNE: Thank you. [LB873]

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SPEAKER SCHEER: Thank you, Senator Wayne. Senators waiting in the queue: Williams, Harr, Blood, and others. Senator Williams, you are recognized. [LB873]

SENATOR WILLIAMS: Thank you, Mr. President. Good afternoon, colleagues. I stand in opposition to the Geist amendment and in support of maintaining the land bank provision in LB873. Many of us have served in various capacities in the communities that we have served. I served for over 20 years on the Gothenburg Redevelopment Authority. I was appointed to that position by the mayor, along with the other board members. That particular board, if you are acquainted with what a redevelopment authority does, acquired property, sold property, developed property, did all of those things for our community to help our community grow. I think it is absolutely the responsibility of this body to give communities the tools they need to succeed. And, Senator Krist, it doesn't just work in Omaha. It works in communities all across our state. And just today during this debate I have been contacted by a mayor of one of my communities that says please stand up and support this. We have got vacant properties, we have got tax-delinquent properties, we have got unsafe properties that we could deal with if we put together our own land bank. There's been a lot of talk on the microphone about getting communities in government in the way of what private enterprise could do. Nobody more than me would like to see private enterprise take care of this problem; but if private enterprise was taking care of this problem, we wouldn't have this problem. And we do. I go back to vacant, tax-delinquent, unsafe properties that a community, with the proper use of property that's donated to them, funds that are donated to them, other things in the form of gifts and tools, they can help solve this problem. Housing, as we have talked over and over, is one of the main issues that faces in particular our rural areas and stops us from rural economic development. This is one more tool that we could use in that area. For those reasons, I think it's right that we stand here and support our community efforts, give our communities the tools, and help them create the future they want to have for their communities. Thank you, Mr. President. [LB873]

SPEAKER SCHEER: Thank you, Senator Williams. Senator Harr, you are recognized. [LB873]

SENATOR HARR: Thank you, Mr. President. So I hear the skepticism about land banks. And first of all, I did receive an e-mail from Coby Mach. And I have to say I do really respect Coby Mach. He is a good advocate out there. And I have enjoyed working with and against him, and I think he brings up some valid points that probably need to be discussed and maybe clarified a little bit. So, land banks, they exist in Omaha. And I had some of the same skepticism I've heard here when I first...when Senator Mello first brought the bill. Is this is really doing what it says it's doing, and can it really do this stuff? Now, Omaha is small, it's new. But I serve on a board of a nonprofit and this nonprofit builds homes in Omaha for people who otherwise couldn't afford them, and it gives them home ownership. And we have been working with the land bank and the land bank provides a number of services, not just the land. So the first thing it could do is it helps people to identify where is the need in an area for development. Now in a small town, maybe

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that's not necessary, it's completely obvious. In other parts, it's not, and in other cities it's not. So they try to figure out where is the need for redevelopment and what can we do to increase the property values in that area because if you put a new home on a block, you have improved the property value of every other home on that block. The other thing they do is...I hear, well, they can take the land. Yes, they can...they can't take the land. Someone has...there has to be a willing seller. They do not have the power of eminent domain. That willing seller may be an individual who doesn't live in Omaha anymore, in the case of where it is now, it may be someone who owes a bunch of back taxes, it may be a situation where there's a tax certificate sale. But what they do then is they can try to consolidate an area and work with landowners in that area so that there can be redevelopment of a whole square block so that you can do something more. The other thing they do is they clear the title. Sometimes it can be as expensive to clear a title as the land is worth. And so what they do is they go in and they figure out who the owners are, they try to clear out certain title issues, and then they can turn around and they sell. They don't sell the land for a profit, right? There is...the only way a land bank can exist, at least the way we run it in Omaha, is if there is cooperation and funding from a nonprofit or more than one nonprofit. That's ultimately what is required. You can't just go out...these can't go out willy-nilly on their own. It takes buy-in. And this board, yes, they are unelected. That's fair. But they have to be a board that has to have a board that have experience in relevant business sectors, whether that's banking, real estate development, landlord, chamber of commerce, etcetera, stuff like that. They do a good job, and they are turning around neighborhoods. Now, can it be abused? I don't know. I haven't seen it, and I haven't seen anything in the language that says that right there, if you got rid of this, this is what I think leads to the abuse, and this is what we have to get rid of. And if someone points that language out to me, that's fair. And I'm more than willing to work on that to try to figure out a way to address those issues. But the overall fear of the land bank, it can look scary. I know I was a little scared in the beginning. But there are plenty of checks and balances within the land bank to make sure that it does operate properly. And in Omaha, it's been operating...it's been a great, great asset. [LB873]

PRESIDNET FOLEY PRESIDING

PRESIDENT FOLEY: One minute. [LB873]

SENATOR HARR: Thank you. Not only do we, the nonprofit that I work for, use it, but I know of others, some who previously tried to do it on their own. Habitat for Humanity now goes through the land bank. Why? Because it's a cheaper, more efficient way for them to acquire a better title for their property. So yes, I can see why there may be some concerns. But again, you have to have a willing seller before this land can be purchased. And I guess I would be willing to entertain any questions anyone may have regarding their concerns with the land bank, but this is a valuable tool in revitalization of areas. Thank you. [LB873]

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PRESIDENT FOLEY: Thank you, Senator Harr. Senator Blood. [LB873]

SENATOR BLOOD: Thank you, Mr. President. Fellow senators, friends all, good afternoon. We're going to have a long day today. I would ask that Senator Larson yield to a question. [LB873]

PRESIDENT FOLEY: Senator Larson, would you yield, please? [LB873]

SENATOR BLOOD: Or did he hit and run again? [LB873]

PRESIDENT FOLEY: I don't see him on the floor, Senator. [LB873]

SENATOR BLOOD: I would ask that Senator Wayne yield to a question. [LB873]

PRESIDENT FOLEY: Senator Wayne, would you yield, please? [LB873]

SENATOR BLOOD: Fast--(laugh) we're on my time. [LB873]

SENATOR WAYNE: Yes. [LB873]

SENATOR BLOOD: Senator Wayne, I'm confused. I was looking at the notes on my computer. Didn't Senator Larson vote this bill out of committee? [LB873]

SENATOR WAYNE: Yes, he did. [LB873]

SENATOR BLOOD: And what was the vote out of the committee? [LB873]

SENATOR WAYNE: 7-0. [LB873]

SENATOR BLOOD: What was it? I'm sorry. [LB873]

SENATOR WAYNE: 7-0. [LB873]

SENATOR BLOOD: So Senator Larson was one of the 7 votes that voted it out of the committee? [LB873]

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SENATOR WAYNE: Correct. [LB873]

SENATOR BLOOD: And then he stood here and tried to indefinitely postpone it, is that correct? [LB873]

SENATOR WAYNE: I let the record speak for itself. [LB873]

SENATOR BLOOD: Okay. So the question I have for you is, do you remember when our Speaker here in the Legislature gave us specific instructions not to vote a bill out unless you supported it? [LB873]

SENATOR WAYNE: We did talk about that, yes. [LB873]

SENATOR BLOOD: Okay. Thank you. That's exactly what I needed answered. Senator Geist, would you yield to a question? Would Senator Geist yield to a question? [LB873]

PRESIDENT FOLEY: Senator Geist, would you yield to a question, please? [LB873]

SENATOR GEIST: Yes, I would yield. [LB873]

SENATOR BLOOD: Senator Geist, I stand in opposition to your amendment. And I see that you have your notes, so you're probably prepared now. Can you tell me in 30 seconds exactly why you want your amendment to go through and change the bill as it exists? [LB873]

SENATOR GEIST: Yes, and it's as I stated earlier, that I'm uncomfortable with giving what appears to be bonding authority to another entity from what we already have. I understand that this currently is a pilot program in Douglas and Sarpy County, and that's fine. I happen to represent Lancaster County, and I have a constituent who recently sent me an e-mail and said that he is trying to stay on top of all the taxing authorities that represent his area of Lancaster County. He counted 14. And in the best interest of my constituents, I'm concerned about allowing another entity to have taxing authority. Now, if that is not what we are looking at here, then that's fine. But if I had not done this, we would not be having this conversation. [LB873]

SENATOR BLOOD: And I appreciate that, except that I was pretty confident Senator Wayne did cover that before. But maybe I misheard him. So the question I have is that do you have aging infrastructure in the area that you live in at all? I know that both Lincoln, Omaha, Bellevue

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especially--we're the oldest community in Nebraska--has aging infrastructure. Do you have that in the area that you represent at all or is your homes all very nice where you live at? [LB873]

SENATOR GEIST: You know, I do happen to represent probably the...a more affluent area of Lincoln. And that just happens to be who my constituents are. So we don't have a whole lot of blighted infrastructure in my district. [LB873]

SENATOR BLOOD: And so the land bank has been a proven tool across the United States, and has been a tool that helps municipalities take underused or property that's not used at all and make it useable. And what that does in the long run is it benefits the taxpayers because it puts that property back on the tax rolls. I can tell you in Bellevue there's a long list of properties that had liens on them that would never get paid, and meanwhile, when they deteriorate, were there nice homes like what are in your district, what do you think would happen to the property values? [LB873]

PRESIDENT FOLEY: One minute. [LB873]

SENATOR GEIST: That's...well, I'm sure that that is an issue. And like I said, I am fine with that in your county. [LB873]

SENATOR BLOOD: Well, but that's not the question. What would happen to the property values in your district if you had property that had liens against it that was not being taken care of? That was the question. What would happen to the property in your district? [LB873]

SENATOR GEIST: I'm sure that that would affect the property values. [LB873]

SENATOR BLOOD: Thank you very much, Senator Geist. [LB873]

SENATOR GEIST: You're welcome. [LB873]

SENATOR BLOOD: Thank you, Mr. President. [LB873]

PRESIDENT FOLEY: Thank you, Senators Blood and Geist. Senator Geist, you're next in the queue. [LB873]

SENATOR GEIST: Yes, thank you. And actually I just said what I was going to stand up here and say, that I have received e-mails from my constituents, one in particular, who said they

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are...that we tell them with property taxes when you...they are asking constantly here to us state senators what are we going to do about property taxes. One of the things many of us frequently say is property taxes are collected and exacted at a local level, so you need to make sure you are at your school board meetings, at your city council meetings, at your county commissioner's meetings. This individual said, I cannot be at every taxing authority's meetings or that's all I would do. So my basic underlying suspicion with this bill is that this would give another entity taxing authority. And I'm, in and of the essence of that, I am opposed to that. I understand that this might be a tool that's effective. I understand that I might even not understand how all of this works. However, that was the reason that originally I was dividing the question, so we could talk about this bill. So that is my intention is have a discussion here so we can understand how this is used. If it's not going to raise property taxes of my constituents, I need to know that. On the face of it, when I see in a bill that an entity has the ability to go into debt or to borrow, then that speaks to me of a bill, I mean...I'm sorry, not a bill. That's going to raise taxes because government doesn't have money in and of itself. So that was my initial push-back of this bill and why we're discussing it today and why I have this amendment from the floor. Thank you, Mr. President. [LB873]

PRESIDENT FOLEY: Thank you, Senator Geist. Senator Morfeld. [LB873]

SENATOR MORFELD: Thank you, Mr. President. Would Senator Geist yield to a question, please? [LB873]

PRESIDENT FOLEY: Senator Geist, would you yield, please? [LB873]

SENATOR GEIST: Oh, sure. [LB873]

SENATOR MORFELD: Thank you, Senator Geist. If we remove the revenue or the bonding portion of this bill, would you support the bill then? [LB873]

SENATOR GEIST: Possibly. I would consider it. [LB873]

SENATOR MORFELD: You would consider it? Okay. If we don't do the land bank, how do you suggest that we resolve the problem of problem properties, which quite frankly, my district is the lowest income district in the entire city of Lincoln, fourth lowest income in the state. I probably have the most problem properties in the city of Lincoln. What do you think are some of the policy alternatives for that? [LB873]

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SENATOR GEIST: And you know, I will let you know, I will be very up-front that I am not an expert in this area. My...and I have said over and over my hesitation with this was giving another entity the authority to collect property taxes. So if we could do that in a method... [LB873]

SENATOR MORFELD: Okay. [LB873]

SENATOR GEIST: ...that's private, I have no problem with that. I want our city to be improved. Economic development is one of the things that I promoted when I was knocking on doors. So I'm all in favor of that. But I'm not in favor of increasing the entities who can raise taxes. That's the bottom line for me. [LB873]

SENATOR MORFELD: Okay. Thank you, Senator Geist. I think that's something we can work on. I personally, I'm not stuck on the revenue-generating, the bond-generating authority of this board. I think that, you know, it would probably be nice in a perfect world. But in general, I don't think it's critical to having one of these. So I think there's actually some common ground that we can be found without stripping the entire ability to create this authority under the bill as Senator Geist's floor amendment does. That being said, colleagues, these are properties that are being left behind by the private market. The reason why the land bank would take these properties is because they are so dilapidated and have been on the market for such a long time, or not on the market at all quite frankly, that we need an entity to take them over, to rehabilitate them, and to resell them. As I noted with Senator Geist on the floor here just a minute ago, my district is one of the lowest-income districts in the state. And as I went door to door, there's a lot of these properties and there's a lot of neighbors who see their land values go down and decrease because there's really no mechanism by which we can take care of some of these problem properties in many cases. So there has to be a mechanism by which we do that. And I think this is a good mechanism. Now, if we are just totally opposed to the idea of a land bank, then let's come out and say that. But if we are willing to take away some components and some mechanisms of it that perhaps we think overreaches, then I think we need to have that discussion. That being said, in terms of this being some kind of rogue governmental body and organization that could just go off the tracks, I mean, I think we have to remember that the city council has to approve the creation of this. And then not only that, once the mayor appoints these members, the city council has to confirm those appointments. So there are checks and balances by our elected bodies that can, number one, be required to take a vote to actually create this entity; but then, number two, quite frankly, can also put some checks and balances on the entity if people feel as though it's going too far. That being said, colleagues, we have a problem, not just in our urban communities but also some of our rural communities. And this land bank is a proven method, not only in Omaha but statewide, that can solve this problem and solve it in a way that will increase property values in all of our neighborhoods and communities and ensure that our neighborhoods and communities are safe, because a lot of these problem properties make our communities and our

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neighborhoods less safe. And it has the necessary democratic checks and balances by local elected boards... [LB873]

PRESIDENT FOLEY: One minute. [LB873]

SENATOR MORFELD: Thank you, Mr. President. ...that are necessary. That being said, I would ask that you vote against the floor amendment, that we work on some tweaks on Select File, and we move on with the passage of LB873. Thank you, Mr. President. [LB873]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Pansing Brooks. [LB873]

SENATOR PANSING BROOKS: Thank you, Mr. President. I rise in support of LB873 and against the FA122. I have neighborhoods in my district that need to be able to use this tool. We have areas that are in some high-need and some high-poverty areas where this would be a very valuable tool for Lincoln. And I just want to remind my colleagues that a few years ago there were those in the private sector that pushed for the passage of the land bank legislation in Omaha. And it actually was a priority of the Omaha Chamber, because the aim was to return the properties to the ownership of the private landowners for developmental or residential use. So that's exactly opposite of what people are saying today, and I can't quite figure out how we have moved from looking at this as a wonderful tool for economic development and growth to all of a sudden, oh, my gosh, we are really hindering people and really going to put a lot of pressure on the communities. The land banks can collect 50 percent of the real property taxes that are collected on a property that are conveyed by a land bank. So this helps fund the work of the land bank. Again, I don't understand what this giant shift in understanding or support of land banks is. It would be very valuable for Lincoln. And with that, I would like to give the rest of my time to Senator Quick, who has some things to clarify and correct for the record. Thank you, Mr. President. [LB873]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Quick, 3:15. [LB873]

SENATOR QUICK: Thank you, Mr. President. And thank you, Senator Pansing Brooks. One thing I want to clarify is that the land banks do not have taxing authority. They are a nonprofit organization. They can use revenue bonds, but those are not...if they ever have to use those, they have the money to actually put back in and repay those revenue bonds. General obligation bonds, they cannot use those. And those are the ones that come from taxes. So I want to make that very clear that they do not have a taxing authority and citizens of the communities will not pay those. A lot of these properties in these communities are so run-down, and no one wants to deal with them, and so the cities and the neighborhoods are left to...well, they have to look at them every day, they have people that go...that maybe that will live in these properties. They have the

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vagrants that pass through, or you could have even...well, I'm not going to go there, but they have this problem all throughout Nebraska. I know even in some of the villages throughout Nebraska where I come from, Hordville, as the community dies, there are properties there that the neighbors have to deal with and they...and there's nothing they can do about these properties. The land bank gives everyone that opportunity, gives...the land bank will redevelop those properties, put them back on the tax rolls. And even though 50 percent goes to pay back the value...to repay the land bank for some of the work that they do, 50 percent also goes to the property tax use. And before, these properties were not supplying any property tax revenue for the community or for the county, and so I think 50 percent of a new valuation on a home, on a renovated home, is a lot more than 100 percent of nothing. And that's what was going on before. So I know the city of Grand Island would really like this to use and have a land bank there so they can deal with some of the properties in our community. [LB873]

PRESIDENT FOLEY: One minute. [LB873]

SENATOR QUICK: There are properties that are "unsightful," that are unfit to live in. And we really need to do something with some of these properties, and right now there's no way to deal with those properties. The land bank is the way to do it, and I hope that you will all vote against FA122. And let's pass this bill and allow land banks to be established throughout the state of Nebraska. Thank you. [LB873]

PRESIDENT FOLEY: Thank you, Senator Quick. Senator Hilgers. [LB873]

SENATOR HILGERS: Thank you, Mr. President. Good afternoon, again, colleagues. I rise in support of FA122 and, depending on the outcome of that, maybe or maybe not in opposition of LB873. I think it's important to sort of, for me at least, to kind of reset a little bit of where I am and why I oppose this. It isn't some philosophical disagreement in which I think that this could never work. It is sort of an understanding of the fact that pilots sometimes are difficult to replicate, and when you are dealing with unaccountable individuals where they intersect with private enterprise and money, that bad things can happen. So it is...I share many...and I appreciate the comments of Senator Harr earlier when...and I wasn't here in the body when Senator Mello's bill was originally passed. I don't disagree that there can be a problem, and maybe municipalities, certainly Omaha is one, perhaps Lincoln as well, and maybe a few others, have this issue. Now, I don't think it's true, and I think I heard Senator Quick say, I don't think it is true that there are no solutions to that at all. They may be imperfect, but there are some solutions. One solution would be through a tax lien foreclosure process. That certainly isn't ideal in some circumstances because it can take some time. So I'm not...there is a problem that has some solution to it. And maybe in some instances we want that problem to be solved faster. But I don't...I want to first say that there's not this notion that this is a problem that can't be solved or

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isn't being solved now I think is over-stating the case. Now, the solution here, I have heard multiple comments around the floor of all the good things that can occur, or even in some cases the good things that have occurred. There are certain anecdotal stories in Omaha in which some good outcome has occurred from this process. I'm not going to stand here on the floor and say that it's not possible that good things could occur, but I don't think that we ought to legislate by possible anecdote without at least taking into account the potential downsides. So while it might be true that some good things could occur from this and have occurred from Omaha, I think it's also certainly true that some bad things could occur, the corruption and cronyism that happens when you have unelected individuals working in a private enterprise-type scenario, when there's money and politics are intersecting. Now, I take Senator Krist's point very seriously, and for the record, as an aside, I did not hear him...his qualifying comments regarding the airport authority board. So I want to correct the record, since we are making a record of this, a transcription. There are certainly a number of great individuals who serve on elected boards. But the point is, is that what we are designing, we're not hiring those individuals. The Legislature is not creating a bill through which we will go out and look at resumes and hire the individuals that are going to be on these boards. We are creating a structure that in some cases might result in a good outcome, but I think in other cases might result in a bad outcome. And what all...what I am saying here on the floor this afternoon is simply that we ought to put up a yellow caution light, that what has occurred in a limited data set of years in Omaha does not necessarily...it does not necessarily follow that it's going to work everywhere around the state. Those two things don't follow. And what I'm suggesting is before we allow a structure to be authorized throughout the state of Nebraska in which we are dealing with unelected individuals who are both spending...utilizing taxpayer dollars and getting involved in private enterprise, in an area that...where we have private developers, we have private real estate buyers and sellers, and the state...and the city is now getting involved in that, I think we ought to just think very carefully about that and maybe wait to see if we have a few more good years of data from the Omaha experience. So my argument is not that we could never have unelected boards that could be involved with spending taxpayer money, although I think we ought to think very carefully about the accountability mechanism here, and I don't think there's a very strong one for that unelected board to do things that maybe the public...maybe they don't have the same accountability measures that they might otherwise have. [LB873]

PRESIDENT FOLEY: One minute. [LB873]

SENATOR HILGERS: Thank you, Mr. President. So I do think that we ought to think about those accountability measures. But more importantly, I think this is something that we ought not rush to expand a pilot project statewide when we don't have enough information to know whether or not it's going to work the way that we all want it to work, or that the proponents of this bill have suggested that it would work in all cases. You know, in the academic literature, there's...it's often very hard to take a really good pilot program where you have really good

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results and expand it to a larger cohort. And the reason is, is when you're...we have a small...you have a small data set, a small group, and you are applying a program or a system to a small group, you can get...you are more likely to have good outcomes or you can get good outcomes. But when you're replicating that when you don't have the same support infrastructure, you don't have the same excellent individuals involved, you don't have the same systems, you are not always likely to get the same results. So I would just caution us in that regard. Thank you, Mr. President. [LB873]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Harr. [LB873]

SENATOR HARR: Thank you, Mr. President. Thank you, body. This is exciting. We are actually having dialogue here and debate. I would say, Senator Hilgers, to your last comment, that keep that in mind when we debate LB295. This bill here, let's be very clear about what it is and what it is not. Land banks cannot, and I repeat this, cannot levy taxes, nope, cannot levy taxes. So we can take that concern off the table. If your concern is property taxes, take it off the table. It's done. If your concern is that, as Senator Hilgers said so eloquently, it's a pilot, and it's worked on a limited basis in Omaha, you're right. It has worked in a limited basis in Omaha, it's worked really well. Does it have an unelected board? Yes, it does. But so does MECA, so does our airport authority, so do many other boards out there that are unelected, that do a great job, that spend taxpayer dollars. The meetings are open to the public, open meetings requirement in this bill. So if you are concerned about that cronyism, we have public meetings laws that apply there. If you are concerned about, well, maybe it won't work in my town, it may not, but that has to do with the people who run it, no different than government can work for some people and not work for others. It depends on how it's run and who you have doing it. It's like a business, it depends on who is involved and who is doing it. You...in order for a land bank to be successful you have to have buy-in from the nonprofit sector. It's just an absolute necessity. You can't do without the buy-in from the nonprofits. And so they are a check, as well, to make sure that these are run well. We have the foreclosure, and we have had that for a number of years in Omaha, number of years in Detroit, number of years in Cleveland. And what they realized is neighborhoods were not being revitalized, they weren't being replenished, and there was no new development that was going on in there. And so, yes, it's been a small pilot in Omaha, but it's not as though we were the first to come up with this idea. This is an idea that started elsewhere and that we adopted in Omaha, that I think we should probably look into adopting statewide, of how do we provide good, low-cost housing across the state. This is another tool in the toolbox of an ability and a way to do it. It's worked effectively everywhere it's been tried. Is it ripe for abuse? No. Can it be abused? I haven't found one system out there that hasn't been abused. If you have two willing actors, chances are it can be abused. To hang our hat on that argument would mean we could not do anything ever in state government, if the fear of abuse was our major concern. If you are worried that the land bank is not being run properly, go to the Auditor. Ask them to review the books. That's why we have the Auditor, to make sure that government runs well and runs

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efficiently and there isn't the cronyism. Back to where I was, the reason that board is unelected is so that you can have private sectors, you can have nonprofits, you can have some of these large foundations on your board, so they can have oversight. I have been involved with this for a very short time. Again, I'm sure there's a way to corrupt the system, but I haven't figured out how. The question is, I've also heard, is these revenue bonds--well, what are these revenue bonds and what revenue do they rely on? And let me just quickly address that. The revenue is if you have property... [LB873 LB295]

PRESIDENT FOLEY: One minute. [LB873]

SENATOR HARR: And if I don't have time and someone wants to give me time, that's fine. If you have property, you can then...and you want to do a development on it, and you have a nonprofit out there that says, hey, I'm going to give you the money down the road, I don't have it today but I'm going to have it, or a foundation can give only x amount away per year, what they do is you go out and you do a private placement on that bond and you say, I have money coming in, I have a letter of intent from a foundation, and I also have this underlying property. And I will collateralize against that property and I will collateralize against those future earnings that we're going to get. And then you pay...that's how you pay it off. So I understand the concern. I like that we are actually having debate and dialogue on the floor and not talking past each other. I think this has been very healthy. This land bank is confusing. I know I was confused a couple years ago on this. Senator Mello is out in the lobby. It's his baby. And I kind of wish I could just grab the guy and bring him in here for that purpose only. Trust me, that person alone...reason alone. [LB873]

PRESIDENT FOLEY: Time, Senator. [LB873]

SENATOR HARR: Thank you. [LB873]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Erdman. [LB873]

SENATOR ERDMAN: Thank you, Lieutenant Governor Foley. So one of the questions that I have about the land bank, and then I have some questions about the other two bills that I dislike, but if a land bank buys a property and I'm a developer and I buy a property...so the land bank, once they buy the property they don't pay any property tax. I'm a private developer. I buy that property. I pay property tax on it. I build a \$200,000 house on the property. If it's in Omaha I probably pay \$5,000 in property tax, 2.45 percent. So I pay \$5,000 in property tax; the land bank pays \$0. The land bank then sells their property for \$200,000 and that \$5,000 that's paid in property tax, the land bank will collect \$2,500, one-half of the property tax, for five years. I pay \$5,000 every year. So they are competing with me at an unfair advantage because they get a tax

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incentive to do that. That seems strange. Then let's shift gears a little bit. LB880 says that when a city redoes their comprehensive plan that they must include early childhood development. Well, I believe, when I asked Senator Hansen about that, what the comprehensive plan may include, I think he said it could include education. So if I heard him correctly, when a city does their comprehensive plan now, if this bill does not pass, they could include early childhood development in their comprehensive plan. Senator Wayne has made the comment several times, and I perhaps have as well: local control. Local control, Senator Wayne. So if a city wants to do a comprehensive plan and they want to write in the early childhood development, they can do that. That's local control. I don't believe it's our position here to tell them they must have an early childhood development in their comprehensive plan. They can decide that, so that's local control. That's what that looks like. And LB768, the LB840 money that goes to the day care or to the early childhood education, is a similar deal where they're...the government is picking winners and losers. I would have liked to have seen this amendment say we're striking LB768, LB854, and LB880. And I'm in full support of LB873, after you remove those three. So that's where I'm at. And I'm going to vote for AM122 if I get a chance, and I would ask you to vote green on it as well. Thank you. [LB873 LB880 LB768 LB854]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Geist. [LB873]

SENATOR GEIST: Yes, thank you, Mr. President. And is Senator Harr still around? [LB873]

PRESIDENT FOLEY: Senator Harr, would you yield, please? [LB873]

SENATOR HARR: Yes. [LB873]

SENATOR GEIST: You were talking a few minutes ago about revenue bonding. Would you explain that again, please? [LB873]

SENATOR HARR: Yeah, it's a little confusing. So...and thank you for giving me a little bit of time. So let's say I buy a property for \$1 million...well, the land bank receives a property for whatever reason, and it's worth \$1 million. And they're either going to develop on it or they're going to sell it to someone, but they got to sit on it and they got to make some improvements on the land before they can resell it. They can do one of two things. They can go out and get a revenue bond or they can go to a nonprofit and say, hey, give me the money to redevelop this, and I'm going to turn around and sell it, and it's going to be ready for a developer then. For whatever reason...maybe it...yeah, the reasons are numerous and endless. So what they can do is the nonprofit may say, hey, we can't get you that money until next year, because it's a foundation and we only have a certain amount. You get a LOI, letter of intent, that you can revenue it, you

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can bond against, and/or you can collateralize against the basis in the land because they're not allowed to mortgage. [LB873]

SENATOR GEIST: Okay. Now, let's say that that land bank group has this beautiful piece of property, but suddenly things go awry on the real estate market. What happens if they have to just sit on that property and no one's interested in it? [LB873]

SENATOR HARR: What happens to the bond? Yep, it's the same as any other investment that you have with a revenue bond, the bond just goes bad. [LB873]

SENATOR GEIST: And who then is responsible for paying that? [LB873]

SENATOR HARR: The person who took the risk, who is getting paid interest by buying the bonds. [LB873]

SENATOR GEIST: Okay. [LB873]

SENATOR HARR: Just like if I buy any other bond and the revenue stream dries up, I'm left holding...if I'm a bondholder, I'm left holding the bag. [LB873]

SENATOR GEIST: Okay. So that could potentially be a private investor or... [LB873]

SENATOR HARR: Yep. [LB873]

SENATOR GEIST: Okay. [LB873]

SENATOR HARR: Yes. [LB873]

SENATOR GEIST: But it is not the taxpayer, is that correct? [LB873]

SENATOR HARR: It is...no, it is not. Well, it could be if the person who buys the bond is a taxing entity. But that doesn't have to be, not...isn't necessarily. [LB873]

SENATOR GEIST: Okay. [LB873]

SENATOR HARR: They would be buying it as an investment tool... [LB873]

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SENATOR GEIST: Okay. [LB873]

SENATOR HARR: ...but not because they're required to. [LB873]

SENATOR GEIST: Okay. Okay, thank you. Thank you. That helps. And, as I have said before, the reason that I brought this amendment is because I wanted to divide the question originally, so that we could have this kind of discussion on this bill, so that we are all up to speed in what we're actually passing. I appreciate your patience, Senator Wayne. I know this is driving you crazy. But I do appreciate it, and I think it's a worthwhile discussion, so that we're all up to speed on exactly what it is we're voting for, and not just pushing the green light to say we'll vote and send it on through. I think it's important that we know the details of things like this. So thank you very much, Mr. President. [LB873]

PRESIDENT FOLEY: Thank you, Senator Geist. Speaker Scheer. [LB873]

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. We have reached the allotted time on this, so we will pass on to the next bill. And this will go to a position of coming back with substantial support at a later time. Thank you. [LB873]

PRESIDENT FOLEY: Thank you, Mr. Speaker. Items for the record, please. [LB873]

CLERK: Mr. President, a conflict statement offered by Senator Thibodeau. Amendments: Senator Brewer to LB1054, Senator McCollister to LB776. That's all that I have, Mr. President. Thank you. (Legislative Journal pages 1037-1041.) [LB1054 LB776]

PRESIDENT FOLEY: Proceeding to the next bill, Mr. Clerk, General File, 2018, committee priority bill.

CLERK: LB1005 is bill by Senator Kolterman. (Read title.) Introduced on January 16 of this year, referred to the Retirement Systems Committee, advanced to General File. There are committee amendments, Mr. President. (AM2204, Legislative Journal page 853.) [LB1005]

PRESIDENT FOLEY: Senator Kolterman, you're recognized to open on LB1005. [LB1005]

SENATOR KOLTERMAN: Thank you very much, Mr. President. Good afternoon, colleagues. As you recall, I filed a motion to suspend Rule 5, 15(a), to allow the introduction of LB1005 this session. The bill was brought to me by the Public Employees Retirement Board, known as the

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PERB, in consultation with the actuary. The trigger for this bill was Saunders County Medical Center's interest in the possibility of discontinuing participation in the county plan. The PERB and the actuary are also concerned about the trend of school districts privatizing certain departments, divisions, or sections such as food service, maintenance workers, paraprofessionals, and bus drivers, which terminates affected school employees' membership in the school employees' retirement plan. The actuary has advised that these withdrawals and termination of membership would likely result in funding impacts on the plan. As introduced, LB1005 grants the PERB and the Nebraska Public Employees Retirement Systems, known as NPERS, the authority to act as an employer in the county...act if an employer in the county or school plans makes a business decision to withdraw from the plan in whole or in part. The PERB and NPERS are granted authority that, number one, it allows the PERB to determine employer and employee eligibility to participate in retirement systems; number two, it allows employers to request an actuarial study that calculates what the employer needs to pay to fund the retirement benefits for plan members affected by the employer's business transactions; number three, it provides a direction on how the actuarial study calculates the employer's liability to fund the retirement benefits for affected plan members; and number four, it outlines how the employer will pay for the actuarial study, and the amount necessary to fund the retirement benefits for affected plan members. Affected employees who are terminated from the plan will be considered fully vested within 90 days of the entity's withdrawal or determination of ineligibility. The affected members will be considered inactive. On or after January 1, 2019, no county hospital facility established under 23-3501 could elect or discontinue participation in their retirement system. The purpose of LB1005 is to ensure that the county or school retirement system is not financially liable for any of the cost of the entity's business transactions, and to minimize the risk of the state...the risk that the state, other entities covered by the plan, or plan members will bear the cost of any of the entity's business transactions. I would like to move right into the amendment, because it becomes the bill. [LB1005]

PRESIDENT FOLEY: Yes, Senator. Please proceed with the committee amendment introduction. [LB1005]

SENATOR KOLTERMAN: Thank you. First, I need to address a technical issue. There was a drafting error in the amendment that merely requires a Revisor change. AM2204 is incorrectly noted as an amendment to AM1897. After consultation with the Clerk of the Legislature and the Revisor, it has been determined that this can be corrected by E&R. It is not relevant to the discussion of the substance of this bill. As I indicated, AM2204 becomes the bill. Under committee amendment AM2204, a county hospital facility established under 23-3501 is required to elect to participate in the retirement system within one year from the effective date of the act, July 19, 2019, or within one year of the act the facility is established, whichever is later. The text is also reformatted to eliminate repetition of language. Under the amendment, the effective date of these provisions is 90 days following adjournment. As required under Legislative Rule 5,

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Section 15(b), I have distributed an actuarial cost study that describes why this bill is needed to determine funding impacts. As the actuary notes in the first paragraph on page 1 of the cost study, the actuarial impact of any single employer withdrawing from either the county or school plan will be dependent on the facts and circumstances in that individual situation. However, there are actuarial consideration and risks related to an employer withdrawing from the retirement system, and the provisions of LB1005, AM2204 allows the PERB to implement procedures that will protect the system's funding from a negative impact. It is not my intent to take a position on business decisions by a plan employer. I respect the hard work and challenges that they face. However, I do believe I have the responsibility to make sure that the PERB has the authority it needs to work with the actuary to calculate an access cost on entities that withdraw so we can continue to protect the plans and ensure the costs do not fall on the retirement system or the plan members or the state. Also incorporated in AM2204, three bills and a portion of the amendment to another bill were incorporated into the committee amendment. Two bills were introduced on behalf of the PERB: LB698 makes the promulgation of the rules and regulations permissive in the county employers, judges, State Patrol, school employees, and state employees plans which are administered by the PERB. The committee was comfortable making this change since the PERB has a fiduciary duty to administer these plans in compliance with all the state, federal, and IRS requirements. The second bill introduced at the request of the PERB is LB699. It inserts language inadvertently left out in LB415, which was enacted last session. In order to harmonize the definition in each of the plans, language was added to the definition of "actuarial equivalent" in the Nebraska State Patrol, the school employees, the State Employees Retirement Acts. The emergency clause is attached to provisions of LB699. LB700 was introduced at the request of Nebraska Investment Council and the University of Nebraska, who each testified in support of the bill. It removes the obligation of the State Investment Officer, and Nebraska Investment Council to invest the funds in the University Trust Fund. The fund is overseen and managed by the University of Nebraska and does not contain tax dollars. The effective date of LB700 provision is 90 days following adjournment. Language that amends the OSERS plan, first, a little background: LB548 was introduced last year by Senator Lindstrom to begin the discussion about consolidating the Class V school employees and School Employees Retirement System. LB548 was held in committee due to concerns about the state taking on any liability for the current \$712 million unfunded liability of Class V OSERS Omaha plan. Throughout the interim, we held numerous meetings with interested parties, particularly representatives of OPS, the OPS Board of Education, the OEA, NSEA, OSERS director and board of trustees members. Various funding options were discussed and addressed to address the Omaha Public Schools' liability for the approximately \$880 million projected obligation for ARC payments over the next 30 years. This year, I introduced AM1758 to LB548. The Retirement Committee held a hearing on February 14 of this year on AM1758 and another amendment, AM1529 introduced by Senator Lindstrom, at the hearing on AM1758. Persons testifying as proponents were Jason Hayes, NSEA; OSERS director, Cecelia Carter; Cheryl Richardson, Omaha Education Association, now retired. And they all submitted a letter of support for the bill and the amendment. David Kramer testified in

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opposition on behalf of the Omaha Public Schools. A portion of AM1758 is incorporated into committee AM2204. The first of the amendments changes the definition of a Class V School Employees Retirement Act to reflect the new actuarial assumptions regarding mortality tables and interest rates from the 2017 Omaha School Employees Retirement System experience study. In determining the actuarial equivalent of annuities, members hired or rehired prior to July 1, 2018, will continue to have retirement benefits calculated based on the 1994 mortality table and interest rate of 8 percent. All plan members hired or rehired on or after July 1 of 2018 will have retirement benefits calculated using the mortality table, interest rate, and actuarial factors in effect on the member's retirement date as recommended by the actuary and approved by the board of trustees. The interest rate may be, but is not required to be, assumed rate of return. As you will see from the actuarial cost study provided by Cavanaugh Macdonald, which is on your desk, the secretary has concluded...the actuary has concluded that they do not expect this change to have any measurable impact on OSERS funding. The second change is the current definition of "solvency" in the Class V School Employees Retirement Act, which is inconsistent with the current valuation methodology used by the actuary in the preparation of the OSERS valuation reports. As currently drafted, the solvency definition allows the valuation to be based on an open 30-year amortization policy which has not changed...which, if not changed, would result in the plan never reaching full funding. Under the provisions in the committee amendment, a new definition of solvency is inserted and defines solvency as the actuarially required contribution amount as annotated in each annual valuation report. This will ensure that the ARC amount that must be paid by the school district reflects the amount determined by the actuary in each annual valuation report. The last provision incorporated from AM1758 requires the school district to deposit the annual ARC into the retirement fund by August 31, which is the last day of the school fiscal year. The emergency clause is attached to all the provisions that apply to the changes of the Class V School Employees Retirement Act. In conclusion, I would like to say the majority of the provisions in the committee amendment are related to ensuring the plans administered by the state and the plan administrated by OSERS remain sustainable, that funding payments reflect the amount determined by the actuary, and that the employer who chooses to withdraw in whole or in part will bear any funding obligation so other plan members, employers, or state do not become liable for any funding requirements. The committee AM and LB1005 were unanimously advanced from the committee, reflecting the committee members' commitment to continuation of the state's history of responsible oversight of these retirement plans. I ask for the advancement of committee amendment AM2204 to LB1005, and would be glad to answer any questions you might have. Thank you very much. [LB1005 LB698 LB699 LB415 LB700 LB548]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Debate is now open on LB1005 and the pending committee amendment. Senator Bostelman. [LB1005]

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SENATOR BOSTELMAN: Thank you, Mr. President. I was wondering if Senator Kolterman would yield to some questions. [LB1005]

PRESIDENT FOLEY: Senator Kolterman, would you yield, please? [LB1005]

SENATOR KOLTERMAN: I certainly will. [LB1005]

SENATOR BOSTELMAN: Senator Kolterman, are there about 20 county hospitals in the state of Nebraska? [LB1005]

SENATOR KOLTERMAN: Yeah, that's exactly how many county hospitals there are. And there are only two that are in this plan. [LB1005]

SENATOR BOSTELMAN: And which two are they? [LB1005]

SENATOR KOLTERMAN: They're Saunders County and Nemaha County. [LB1005]

SENATOR BOSTELMAN: And why aren't all county hospitals in the plan? [LB1005]

SENATOR KOLTERMAN: Because under the current structure a county hospital can choose whether or not to be in the plan. And so far, only two have chosen to be in the plan: Saunders and Nemaha. [LB1005]

SENATOR BOSTELMAN: So how can there be a funding impact in the county plan? Isn't it a cash-balance plan? [LB1005]

SENATOR KOLTERMAN: That's a good question. Yes, it is a cash-balance plan. But a cash-balance plan is a defined-benefit plan. The cash-balance plan guarantees a minimum 5 percent interest rate, interest credit rate, and it currently grants 7.5 and a 7.75 percent annuity rate. So as a defined-benefit plan, you have to have actuarial assumptions, and they're made to determine funding needs and liability, including assumptions about when members will terminate or retire, how much in contributions will be paid throughout the entire employee membership until retirement, things like when a member is likely to draw his or her account balance. Actuarial assumptions do not...they don't contemplate early withdrawal of an employer or the potential of a large number of members withdrawing their balances from the plan early or suddenly terminated prior to retirement. A cash-balance plan also doesn't anticipate the large numbers of members, of the members that may stay in the plan after sudden termination and it continues to draw the

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minimum 5 percent interest credit rate. So the risk here is if the employer withdraws there's substantially lower investment returns occur that have to be absorbed by remaining employers or the state of Nebraska. And that's what we're trying to avoid. Again, we're not telling the school districts or the counties that they can't make these business decisions. All that we're telling them is if you make the business decision to pull out of the plan, you have to be able to pay for the liability that it creates. And that's what we determined, that's what came up when we started looking at Saunders County. The other thing that caused us to look at this was the fact that we have school districts that have pulled people out of their plan, they don't have bus drivers in the plan any longer, they don't have cooks or food service, they don't have people like janitorial service. They're outsourcing those. Those all have a negative impact on the plan. We don't want to have the state to have to fund that with more money. Does that answer your question?
[LB1005]

SENATOR BOSTELMAN: Pretty much so. So can you tell me how can an employer's withdrawal from the county cash-balance plan impact the county cash-balance plan members?
[LB1005]

SENATOR KOLTERMAN: I'm sorry, would you... [LB1005]

SENATOR BOSTELMAN: So how can the employer's withdrawal from the county cash-balance plan impact the county cash-balance plan members? [LB1005]

SENATOR KOLTERMAN: Well, if you have a county cash-balance plan and you have...all of a sudden you have 30 members that come out of the plan, it's going to have a negative impact on the system. So in order for the plan to meet the standards to be a qualified plan under the IRS requirements, it has to be administered for the exclusive benefit of the members. So once the cash-balance member... [LB1005]

PRESIDENT FOLEY: One minute. [LB1005]

SENATOR KOLTERMAN: ...cash-balance member benefits or dividends that are awarded. So sometimes we have dividends in a cash-balance plan, and if the plan is over 100 percent funded we could get some of those dividends. If the plan is subsidizing plan losses caused by an employer's withdrawal, it means the plan's funding status could be reduced and thus prevent or delay plan members from receiving dividends. So we have to take that into account as well. We don't want to hurt the people that are in the plan because somebody elected to pull other people out. And so the plan would really have to absorb any costs that would happen as a result of a county hospital or a school district pulling a bunch of members out. [LB1005]

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SENATOR BOSTELMAN: How much time do I have left, Mr. President? [LB1005]

PRESIDENT FOLEY: Your time has now expired, but you're next in the queue. So you may continue. [LB1005]

SENATOR BOSTELMAN: Thank you very much. I have one final question. And Senator Kolterman and I, we have discussed this over the last few weeks about this plan specifically. And the last question really comes around to why can't we exempt our county hospitals--and specific, Saunders County Hospital--from this bill? [LB1005]

SENATOR KOLTERMAN: Well, there are actually several reasons we can't do that. It means we would be substituting our judgment for the actuary's analysis and advice. Under legislative Rule 5, Section 15(b), which we implemented early on in the session to get this bill on the record, we're required to have an actuarial analysis conducted to determine the funding impact of any changes to the plan. I passed out that actuarial analysis to all of you, as required by the legislative rule. The actuary has determined the changes proposed in LB1005 will allow the PERB to implement procedures that will protect the system's funding from a negative impact. It would be arbitrary to pick and choose who could withdraw from the plan without bearing any of the financial liability. And we have seen that happen over the past few years. We've had school districts pull 25, 30, 40 people out of the plan, and we didn't know about it. So we've already created some of that liability and now we're just trying...that we're just fixing that. It would also mean that we would knowingly be choosing to expose the county plan members and employers of the state of Nebraska to potential liabilities that are out there, financial liabilities. We haven't administered our plans like that in the past. We have acted responsibly throughout the years to ensure that our plans are well funded. Rather than kicking the can down the road, we need to keep the plans in good shape. I would tell you that right now our county plan is at 102 percent funded, our state plan is at 102.5, our judges at 94 percent, our school plan is at 87 percent, and our Patrol plan is at 85 percent. So we just can't, as much as I would like to say to Saunders County or Nemaha County you can kind of come and go as you want, we have to tie up the loose ends. Again, we're just trying to protect the plans. And I would say that I really appreciate the fact that Senator Bostelman and Senator Watermeier have worked with me on this bill, because it affects both their districts. But the bottom line is if we don't make these corrections we're going to have problems down the road with the funding issue. Does that answer your question, Senator? [LB1005]

SENATOR BOSTELMAN: Yes, Senator Kolterman, thank you. Thank you, Mr. President. [LB1005]

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PRESIDENT FOLEY: Thank you, Senator Bostelman and Senator Kolterman. Senator Kolterman, you're recognized to close on the committee amendment. He waives closing. The question before the body is the adoption of AM2204, committee amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB1005]

CLERK: 35 ayes, 0 nays on adoption of committee amendments. [LB1005]

PRESIDENT FOLEY: AM2204 committee amendment has been adopted. Further discussion of the bill? Senator Kolterman, you're recognized to close on the advance of the bill. [LB1005]

SENATOR KOLTERMAN: Thank you again, colleagues. I would encourage you to support LB1005 as amended. Again, it has been my pleasure to work with Senator Bostelman and his hospital, as well as Senator Watermeier. It's not that we don't want to help them, but it's a matter of protecting the state's assets here. They understand that, and I appreciate them working with me. So with that, I would encourage you to vote green on LB1005. Thank you. [LB1005]

PRESIDENT FOLEY: Thank you, Senator Kolterman. The question before the body is the advance of LB1005 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB1005]

CLERK: 38 ayes, 1 nay on the advancement of the bill, Mr. President. [LB1005]

PRESIDENT FOLEY: LB1005 advances. [LB1005]

CLERK: I have just one announcement, Mr. President, thank you. Natural Resources will have an Executive Session at 4:30 in Room 2022. That's all that I have. Thank you, Mr. President.

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

CLERK: Mr. President, LB921 was a bill introduced by Senator Lowe. (Read title.) Introduced on January 9; referred to General Affairs; advanced to General File. There are committee amendments, Mr. President. (AM1935, Legislative Journal page 848.) [LB921]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Lowe, you're recognized to open on LB921. [LB921]

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SENATOR LOWE: Thank you, Mr. President. LB921 is a bill that is intended to encourage job creation in Nebraska. And I want to thank Senator Larson for making this his committee priority bill. The bill would add an exemption to the Nebraska (State) Electrical Act to allow a licensed or journeyman electrician an increased apprentice ratio when working on agriculture buildings. The current ratio allowed is 3 to 1. There have been concerns presented by some organizations in regard to this bill. Most of those concerns pertain to the ratio change and the scope of work apprentices would be allowed to do these situations. The amendment pending to LB921 should address those concerns. It specifies that the ratio change on agriculture buildings can be up to 5 to 1 on tasks that do not involve electrified wires. If the wires are electrified, the standard 3 to 1 ratio would apply. On the initial bill, the ratio was left open-ended and caused some concern. The initial solution, after the hearing, was to limit the ratio to 8 to 1. The thought was designated from a specific number that came out of a hearing in which the opponents of this bill stated that they could see some benefit in some scenarios for a slightly higher ratio than 3 to 1. The idea for 5 to 1 came about part because of conversations I had with electricians in and around Kearney. They suggested the idea of 5 to 1 ratio if a few other stipulations were applied. The suggested stipulations limited the kind of work that anyone counted in the 5 to 1 ratio would be allowed to do. Firstly, they have to be apprentice electricians; and secondly, they could only work on conduit runs and pulling wires. I want to emphasize once again that the 5 to 1 ratio would only apply to work on wires that were not electrified. The idea for this bill was brought to me by QC Supply, a Nebraska-owned and operated company. Let me repeat again, that is a Nebraska-owned and operated company. This bill would benefit them, but also countless other companies throughout Nebraska and specifically in rural areas. QC Supply came across the need for this bill when they were working on building nearly 400 chicken coops in northeast Nebraska. That project is a major investment in our state, and, according to some people, is only the first installment of such projects. From what I have been told, if the chicken coop project in and around Fremont is successful, there is potential opportunity for another major investment in the Grand Island area. If the project is not successful, then it is likely that Iowa would receive that investment opportunity. I believe that with these suggested changes, LB921 is a bill that can help Nebraska, while ensuring any construction on ag buildings is done properly and safely. LB921 is a bill that can bring Nebraska jobs, encourage outside investment, and allow our farmers a steady secondary income for years. I urge you to support LB921. Thank you, Mr. President. [LB921]

PRESIDENT FOLEY: Thank you, Senator Lowe. As the Clerk indicated, there are amendments from the General Affairs Committee. Senator Larson, you're recognized to open on the committee amendments. [LB921]

SENATOR LARSON: Thank you, Mr. President. The committee amendment replaces the term "farm building" with the term "farm installation," but the definition in LB921 remains the same. The committee amendment also creates an exception that a licensee may employ or supervise apprentice electricians at the ratio not to exceed 5 apprentice electricians to 1 licensee when such

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apprentice electricians are engaged in installing conduit runs or pulling wire. The current ratio is 3 apprentice electricians to 1 licensee. Committee amendment replaces language in LB921 regarding general laborers with a new subsection (8) that states that the Nebraska (State) Electrical Act does not require a licensee for a person engaged in general labor, including but not limited to digging trenches, or unloading, hauling, or moving electrical wiring or wiring components. Colleagues, as Senator Lowe said, we heard a lot of testimony on LB921 in committee. And I understand that it's...that Senator...that a number of people will call this a safety issue. I want to express to the members of the body that what we're focusing on here really is installing conduit runs and pulling wire. These are often...or this is when the lines are dead. I know Senator Quick passed out some images of people getting hurt from electricity, but I would like to remind you that that's when the wires are hot. What we're focusing on are when the wires are not hot, as I said, are engaged in installing conduit runs and pulling wire. I even see in one of the last pictures Senator Quick is trying to scare you with, a guy grabbed a power line. I assure you, a power line will not be part of this, of what they're doing. They will not be anywhere near power lines or working with them. So like I said, I understand that Senator Quick is trying to get his point across, but that's not necessarily what we are actually discussing in LB921. And I think one of the things that will continue here as well is this is a carve-out or they're trying to fix a problem that they shouldn't have bid so low. But what I think we really need to understand is, and we continue to do this on many bills in the Nebraska Legislature, is continue to work to make Nebraska a more competitive place. Senator Harr talked at length today about work force, and work force development, and how that is intriguing to companies. Well, the ability to do...to match ourselves--let me rephrase that--to match ourselves to what other states are doing to attract these types of businesses is important. And I understand, I shared this with Senator McDonnell the other day, that this is essentially...or some are trying to make this out to be a turf war, or what I would call a scope of practice issue. And there will be those that are opposed to it because of that reason. They side with one side of the lobby, but in the end, this is truly an economic development issue. I'll be happy to discuss with Senator McDonnell the scope of practice and how we have a specific industry protecting themselves, and yet they are the industry that also writes the rules about themselves to continue to protect themselves. I think that's exactly what...you know, a lot of what we were doing in Senator Ebke's LB299 with occupational licensing. I shared the same article with her that I did with Senator McDonnell. So what this is truly is economic development, making us competitive compared to other states, and setting Nebraska up to get projects such as this in the future. We are an ag-friendly state; we're going to continue to be an ag-friendly state, but we need to continue to stay on top. And LB921 allows that, it allows us to move forward, it allows us to be more competitive than other states, and it will ensure that we continue to get projects in the state of Nebraska that we need. Thank you, Mr. President. [LB921 LB299]

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PRESIDENT FOLEY: Thank you, Senator Larson. Debate is now open on LB921 and the pending committee amendment. In the queue are Senators Krist, Blood, McDonnell, Lowe, Bolz, and Hansen. Senator Krist. [LB921]

SENATOR KRIST: Thank you, Mr. President; good afternoon, colleagues; good afternoon, Nebraska. I can only remember three times in ten years where I have actually tried to lead or tried to enforce a filibuster. This would be number four, I think. So just to announce my intention, the extended debate will take us to three hours. It's 4:00...I think we started at 4:20, I think Vicki can nod her head if that's about right. It's going to go for four hours, so...I'm sorry, for three hours. And then I believe we all can look at 33 or 17 and see where it goes from there. This is not about a corporate structure coming in that the Chamber of Commerce has lured into the state, and thank you for doing that. It is additional jobs. It's not about the process of not having enough labor in the state. We have already achieved that goal and presented several arguments that both union and nonunion labor are available for this project. This is about public safety, and this is about, as Senator Larson previewed to you, carve-outs. Now, I've been on General Affairs my first four years, and now my last few years, thanks to my caucus--thank you very much, I really enjoy General Affairs--and I've dealt with codes and national codes and state codes and the adaptation of codes and the exemptions of codes and what something is actually built...how it's built and what code is being used. And I've seen it time and time again where if it's advantageous to cut corners, then a contractor is more likely to come in and ask for an exemption to the code to move forward. Now, this is really about one contractor, one company that came in asking for exemptions to almost every one of our building codes. They asked for an additional span in terms of the beams within the structure; they asked for other exemptions. Now they're asking for the electrical codes. And in testimony, which I'll...my several times on the mike, and I will use other tactics to make sure I get on more than three times today, I will read part of the testimony where this individual from QC thinks it's so important that he's going to bring people in from states who could really know how to do this, from Arkansas and Louisiana and other competitive states, to get this done. I don't think that's necessary. I think we have enough labor here in the state to do the job. More importantly, I think it's a competitive job process. Senator Larson quoted Senator Harr, and I think Senator Harr would be the first one to admit that when he talks about building jobs and building Nebraska, he's not talking about slave labor, he's not talking about slightly over minimum wage, he's talking about a living wage, which many of our folks around the state enjoy and can enjoy. So you can rebut anything you want to, in terms of this debate today. I'll use many tactics to make sure that you understand how serious I am about this issue. And I'll also say that reading from the transcript and reading from public law and reading from the codes, you'll be interested to find out that this is completely about public safety and a process that's in place. I was here right after we changed the location of the State Fair. I know that the state itself is not liable for some of those building codes, and there were corners cut when those facilities were built... [LB921]

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PRESIDENT FOLEY: One minute. [LB921]

SENATOR KRIST: ...because it was such a priority to make sure that we had people...we had facilities to house the State Fair. And I think we cut some corners there, too, and I was very vocal about that process. So we'll have the debate today; it will be an extended debate for three hours. And then eventually, if we have to do it again for three hours, it will be another three hours. But I think that there are no scare tactics involved. This is, basically, do you want to conform to the codes that are currently in place or do you want to start wholesale, willy-nilly--that's a technical term--changing codes every time we look for new businesses? And although it's a much different church, I would think it's the same approach. Do we want to have another issue where we bring businesses in at all costs and then they turn around and leave us? So again, not about Costco, about a contractor who got themselves in a position and are asking us to conform to what they believe is the right code, instead of the Nebraska code. [LB921]

PRESIDENT FOLEY: Time, Senator. [LB921]

SENATOR KRIST: Thank you, Mr. President. [LB921]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Blood. [LB921]

SENATOR BLOOD: Thank you, Mr. President. Fellow senators, friends all, I stand opposed to LB921, and I am in agreement with Senator Krist when he says this is about safety. And like Senator Krist, I did a lot of research, and this is, indeed, a special interest carve-out, and I'm really concerned that when we start this, it really influences the good works that we do here in the Legislature. Promptly after dropping this bill, I know many of us received an e-mail requesting a carve-out for pivot irrigations. So once you start this ball rolling, it does not stop. But I want to take it a step further. I am concerned when we hear words like "economic development." That's a wonderful phrase that we like to use here in Nebraska and we like jobs, but they've already picked the state. They're not going anywhere. And I think it's a bad use of terminology when you throw that in the mix to try and influence people, because this has nothing to do with economic development. The facilities are going to be built. What it has to do with is an organization named QC Supply. Senator Larson stood up here and brought forward Mr. Hiller as an excellent candidate for the board, for the state board, Electrical Board, and he specifically told many of the senators who sit on that committee that this is a bad bill, that this is bad for safety, that this is something we should not support. And I think that has great value when a member of our Electrical Board, that we all voted for, says run away from this bill. But I didn't just want to listen to people's opinions, so I did my research like I always do. And I found that QC Supply has had issues with fires in other states in their chicken facilities. And I have pictures and I have the reports if anybody wants to see them that verify that when you do things that

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are...is shoddy work, when you try and jump the rules and do things the way you think is going to be the most cost-efficient, not the safest, that people can potentially get hurt, not to mention the animals that live in the facilities. So if you're an animal lover, it's bad. If you're a people lover, it's bad. It's just bad. We're not talking about changing things so people come running to Nebraska. We're talking about safety. We're talking about rules that have been put into place to protect people. This isn't about LB299. LB299 is about removing hurdles so people can get to work. There's no hurdles that need to be removed here, and this company that is the contractor isn't going to be hiring Nebraskans. They have already told us they're bringing people in from out of state because the labor is cheaper. So if you're going to vote for this because you think it's a good idea for economic development, it is not. If you're voting for this because you think you're removing hurdles so people can work, that is not true. Support this bill for the right reasons, and there are no right reasons. This, unfortunately, Senator Lowe, is a bill that's going to hurt somebody. You're not removing hurdles; you're not improving economic development. And I personally don't like it when people come to my state and start asking for exceptions and when they can't get the exceptions they want, then they go to a senator and they ask for a bill. That's a bad way to do business. You'd don't grow economic development that way. What happens is you get a lot of shoddy things done in your state and you become known as buffoons. Thank you, Mr. President. [LB921 LB299]

PRESIDENT FOLEY: Thank you, Senator Blood. Senator McDonnell. [LB921]

SENATOR McDONNELL: Thank you, Mr. President. Senator Lowe's...I'm standing in opposition of AM1935 and LB921. I agree with Senator Lowe about bringing business into the state of Nebraska. I think we all do. It's a matter of the rules they're going to follow when they get to our state, not what their experience has been with other states and the things they've done in other states, even though that's a concern of ours, that's something we should look at, because if they've done good things, then we want to look at that and we don't want to be too proud to borrow good ideas. But the problem with what's going on here...and I'm going to start with a letter from the State Electrical Board, who is our subject matter experts on this--I handed it out to everybody--March 9, 2018. And we're going to talk about not trying to keep these people out of our state. We want them here. We want Costco here. We want QC here. We just want them to follow our rules. It's March 9, 2018: Dear Senators, on behalf of the State Electrical Board, we would like to take a position in LB921. As the Electrical Board, we put emphasis on safety and our mission to protect the citizens of Nebraska against electrical hazards and as an investigative arm when it comes to the electrical-related deaths and injuries. We look at being our duty to also look at what we can do to protect our citizens, property, workers, and livestock. Nebraska Statute 81-2104 gives the power to the board to adopt, promulgate, and revise rules and regulations necessary to enable it to carry into effect the State Electrical Act. In adopting and promulgating such rules and regulations, the board shall be governed by the minimum standards set forth in the National Electrical Code. We look at the best practices to install electrical systems in a manner

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that is safe to all of those that may be affected. In the past ten years, the majority of the electrical-related accidents have occurred in the rural, ag-related areas of the state. In this case, the change to the act is being brought to allow a large, out-of-state corporation, Costco, and their general contractor, QC Supply, to change not only what the definition of the farmer's property is, but to change the supervision requirements of those that are doing installations. We already have laws in place to allow the owner of a small family farm to do their own wiring. We ask that we do not allow these large corporations to redefine what is a small farming operation or a farm building area. Their definition is a very broad definition. Rather than to come to the board and ask what may be considered a workable solution, they instead went straight to a senator to change the law that would bring in out-of-state, nonqualified installers rather than to use our Nebraska work force. In closing, the board believes that the passing of this bill will create serious safety concerns. Signed, Kevin Booker, State Electrical Board secretary. As Senator Blood mentioned earlier, John Hiller is on the State Electrical Board. We did confirm John Hiller. We thought his qualifications as a licensed electrical contractor with Hiller Electric was enough to put him on this board. This is one of the seven that are our subject matter experts. We have one person, a rural electric systems representative from Norfolk; a certified electrical inspector, city of Lincoln; we have another person who is a licensed journeyman electrician from Bellevue; we have another person, municipal electrical systems representative, public works, from Crete; we have another person... [LB921]

PRESIDENT FOLEY: One minute. [LB921]

SENATOR McDONNELL: ...that is the registered professional engineer, Morrissey Engineering, Omaha; as I already mentioned, John Hiller, licensed electrical contractor; and we also have another person that's a licensed electrical contractor, Blue River Electric, Seward. These are our subject matter experts. And in the next three hours, we're going to talk about the history of the Electrical Board, why in 1969 was it put in place. It was put in place for safety. That is the number one issue--safety. It's always going to come back to the idea of taking some of these dangerous jobs, and what can we do to make these dangerous jobs safer, not perfect, not without accident and tragedy. But when we start looking at the people that know their industry, which is the people that serve on this State Electrical Board, and all of them telling us this is not a good idea, and we can talk about carve-outs, we can talk about other things, but I think we should keep our focus on safety. [LB921]

PRESIDENT FOLEY: Time, Senator. [LB921]

SENATOR McDONNELL: Thank you. [LB921]

PRESIDENT FOLEY: Thank you, Senator McDonnell. Senator Lowe. [LB921]

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SENATOR LOWE: Thank you, Mr. President. We've just heard about safety and about a company coming in from out of state. QC Supply is a Nebraska company. Let me say that again. QC Supply is a Nebraska company. They are not from out of state. They may be from out-state Nebraska, not Omaha. We've also heard about safety. Nowhere in this bill does it say the inspections will be taken away. The inspections will still be there. Safety will be there. Right now a farmer can install his own electricity in a barn and have absolutely no inspections. Safety is here with this bill. This is an economic developer for Nebraska. Costco is coming in to Nebraska. And, by the way, they...that out-state company, Costco, did not bring this bill to me; they support the bill. So it is not an out-state person. It's not an out-state company. Slave wages? These are not minimum wage jobs being hired. They're going to be hired for much more than that. Each and every one of the people working under the electrician will be an apprentice. How do we get more electricians? You create more apprentices. They work up, they follow the rules, and they become electricians. All of a sudden we have plenty of people willing to work. We might even have...a lot of this is coming from the unions. A lot of them will become union members. This is an economic developer because this project will bring in approximately \$1.2 billion into Nebraska. It has already started construction in Fremont for the plant. The chickens have been ordered. They cannot return a chicken. These barns need to be built. They need to come home to Nebraska. Our chickens need to come home to roost. Thank you. They're building this plant in Nebraska because of corn. Nebraska has corn. Nebraska has soybeans. We have the feed for these...this poultry. The opportunity of more businesses like this Costco plant coming to Nebraska is pending on how we react to this. Iowa, they would be glad to accept plants like this. Other states, Arkansas would be glad for a billion dollars to come to their state. They would be glad to sell their soybeans and corn. Right now, this is corn that is being exported out of the state, or out of the...or out of the country. Let's keep it local. Let's feed our birds. Let's develop a new business in Nebraska, a new enterprise. Let's bring these businesses to Nebraska. Let's show them as a Legislature... [LB921]

PRESIDENT FOLEY: One minute. [LB921]

SENATOR LOWE: Thank you, Mr. President. Let's show them, as the Legislature, that we can work with these companies. This is not one business. This is not just QC Supply. This is many businesses that are being employed because of this. QC Supply is not building everything. There are 30 other companies working on the plant. Think of that. Two plants in a couple of years, think of the business that this can generate for Nebraska. Let's keep the Governor's Cup coming back to Nebraska. Thank you, Mr. President. [LB921]

PRESIDENT FOLEY: Thank you, Senator Lowe. Speaker Scheer. [LB921]

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SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. Colleagues, very quickly a couple things. First, you received the memo from me in regards to late nights and availability of lodging, so you might want to keep that with you, in case there happens to be a question regarding that at any given point in time. Secondly, I am assuming that we will need a break for dinner, so my intent would be to break at 6:00 to 6:30 this evening and come back and finish on LB921, if, indeed, we are still there. And the last thing that I would like to mention is I did designate LB944 as a major proposal, which gives me the flexibility of ordering the amendments as they will come up on the board. I wanted to make sure that we did have time to talk about the budget and various things. It would be my intent to have the following items in this order, unless something comes up that I'm not aware of overnight. The first one is there is an Appropriations Committee amendment that needs to be worked on and voted on. The next item would be Senator Krist's amendment, because we have already moved the dollars and the cash transfers the other day when we worked on that, and so we need to have LB944 catch up with that as well. The third item would be Senator Erdman's amendment. And then fourth, if there is nothing else, we will go back to discussion of the Title X funding. So unless something changes overnight, that would be what I'm looking at in relationship to the conversation tomorrow on LB944, which is the budget bill. If you have any questions or concerns, please feel free to contact me, but those are the three things I wanted to mention to you before we took off for dinner. Thank you.

PRESIDENT FOLEY: Thank you, Mr. Speaker. Continuing discussion on LB921 and the pending committee amendment, Senator Bolz. [LB921]

SENATOR BOLZ: Thank you, Mr. President. I wanted to address a couple of issues that I think underlie the arguments in favor of this bill, and I have some hesitations and some concerns about the legislation, as well as some of the underlying assumptions. One of the underlying assumptions seems to be that this would be helpful in terms of building a work force to construct these buildings so that we can move forward with these projects and initiatives. And while generally I'm talking about the need for work force development in our state, in this area, I did some research to see how much need there was for these types of workers, and I found a list of not quite a hundred workers on the Department of Labor's Web site that are prepared to do this kind of electrical work. So worker number 456167 is active; he or she registered on-line on 3-18-18. This person has two years of college or a technical or vocational school degree, and so that person is very qualified to do this work. And so the first concern I have is that there are literally a list of people, and anyone, including you, Senator Lowe, would be welcome to come by my desk and take a look at it to illustrate that there are workers available that have the right skill sets to do this work. The second underlying assumption or concern or idea I wanted to address is that this work is appropriate for a second...a nonlicensed person or a person without the same level of skills and abilities as a licensed electrician because the wires aren't live or because it's a lower level of work to be done, and, being the policy wonk that I am, I asked for some details about that. I wanted to know what that looked like and meant. And sure enough, I

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received this copy of the 2017 Electrical Code. And so I looked up conduits, and there are pages and pages of information that people need to know in order to be safe in constructing conduits, everything from how you handle a metal box conduit and the type of cables that need to be used in those conduits, to opening and closing conduits to the radius of conduit bodies, to the ability of a conduit to manage an electrical current. This is not...this is not necessarily simple work. It's work that you need to understand how currents work and the potential for explosions and things like the potential for fire hazards. And so I am concerned about this work being done by nonlicensed professionals without appropriate supervision, not only because the depth of technical knowledge is serious, but also because of the potential consequences. No one wants to see anyone injured on any work site, but the potential for a work site to have a serious incident because of an electrical issue is real. And so I bring those concerns to the table. The other issue I'd like to bring up, and if anyone on the floor knows the answer to this question, I'd love to hear it--I'll run down to the Legislative Fiscal Office and get some more information about it--but it's my understanding that the project that we're talking about in the Fremont area... [LB921]

PRESIDENT FOLEY: One minute. [LB921]

SENATOR BOLZ: ...has received funds and resources from the Department of Economic Development, which, if it's under Nebraska Advantage, provides wage credits and, if it's through the Job Training Cash Fund, provides funds for job training. And so I will ask for that information. The next time I'm on the mike, I will share what I learn. But if we are subsidizing this project through our Department of Economic Development and saying that that helps to build the work force and build this economic engine, then I don't know that it makes sense to decrease the quality standards at the same time that we're subsidizing employers to do a really good job for the state of Nebraska. So next time on the mike, I'll share that information. If anyone has any further information, I would love to hear it and have that discussion further. Thank you, Mr. President. [LB921]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Krist. [LB921]

SENATOR KRIST: Thank you, Mr. President. Again, good afternoon, colleagues and Nebraska. I have a few things I want to enter on the record just for consideration. First, I'll read the state of Nebraska Office of Attorney General, when Mr. Stenberg was the Attorney General; this was May 17, 1999. Some of the same requirements and/or requests for deviation from inspection and for construction were going on--same tune, different verse. This was written on May 13, 1999: Poultry Processing Plants--Electrical Inspection; Requested by: Terry L. Carlson, Executive Director; Written by: Don Stenberg, Attorney General; Mark D. Starr, Assistant Attorney General. And I quote: You have asked whether poultry feeder buildings are subject to inspection pursuant to the State Electrical Act. Each of the buildings you describe will house approximately

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40,000 young chickens until they are ready for processing. Two such buildings have been erected at the site near Tecumseh and plans are to build about six more such buildings on the site. The poultry processing company reportedly does not own the buildings; not (sic--only) the chickens. The company contracts with investors to raise the chickens to processing weight. Therein lies...I'm now...end quote. Therein lies one of our problems. For any of you who are listening at home--not very many people are listening in the Chamber--there's a difference between the farmer erecting a building on his farm, as Senator Lowe related, which does not have to be inspected, and a contractor who is erecting a barn. Case in point, the Fremont generation plant and the codes within the Fremont municipal area are not going to allow these waivers. Their inspectors are going to stay with the standards. And if you want to check that out, go out and talk to the folks who are actually inspectors. So now we have two different standards. In Senator Lowe's bill, he would say that these chicken houses, which are outside the jurisdiction, outside the municipality, have one set of codes; and inside, the inspectors who are inspecting for Fremont are enforcing the original codes. Curious, eh? Something to really cluck about. I quote: The company also proposes to contract with area farmers to raise company's chickens in the same type of buildings. The farmers are apparently to have the necessary buildings constructed. The company will not own these buildings. The company also may not (sic) have plans to have such buildings constructed on its own land. Nebraska Revenue (sic) Statute 81-2124, 1994, provides that all new electrical installations for commercial, industrial applications, including installations both inside and outside the building, and for public-use buildings and the facilities and any installation at the request of the owner shall be subject to the codes and inspection and enforcement provisions of the state electrical code. That is the first page of the Attorney General's Opinion. It also references on page 2, written by and signed by Don Stenberg and prepared by Mark Starr, the references: Nebraska Revenue (sic) Statute defines a commercial installation as one intended for commerce or for a family dwelling in excess of a single-family dwelling unit. It goes through all of the definitions. In this amendment, we purport to be changing definitions in order to compromise the codes that are in place and make it legal to do what this individual contractor wants to do. Nebraska Revenue (sic) Stat., 1994, 81-2102 also defines an industrial installation as one intended for the use in the manufacture or processing of products involving systematic labor or habitual employment and shall include installations in which agriculture--agriculture--or other products are habitually or customarily processed or stored for others, either by buying or reselling on a fee basis. I don't know how much clearer that definition could be in terms of this applying to an agricultural concern in a commercial enterprise. Nebraska Statute...Revised Statute, 1994 again, 81-2121, provides that nothing in the State Electrical Act shall be construed to... [LB921]

PRESIDENT FOLEY: Time, Senator. [LB921]

SENATOR KRIST: Thank you, Mr. President. [LB921]

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PRESIDENT FOLEY: Thank you, Senator Krist. Senator Blood. [LB921]

SENATOR BLOOD: Thank you, Mr. President. I would ask that Senator Lowe yield to a question. [LB921]

PRESIDENT FOLEY: Senator Lowe, would you yield, please? [LB921]

SENATOR LOWE: Yes, I will. [LB921]

SENATOR BLOOD: Senator Lowe, did you grow up on a farm? [LB921]

SENATOR LOWE: No, I did not. [LB921]

SENATOR BLOOD: Oh, by the way, I'm standing against LB921. So I call shenanigans on your statement about how they've already ordered the chickens, so maybe they got eggs and they have somebody sitting on them right now or...is that what you're telling me? What are you telling me? You said that they've already ordered the chickens. [LB921]

SENATOR LOWE: They have put an order in for the chickens to be delivered, yes. [LB921]

SENATOR BLOOD: Okay. So do you know how...what form those chickens usually come in? [LB921]

SENATOR LOWE: Probably live. [LB921]

SENATOR BLOOD: That's probably the preference. I'm guessing pullets. Do you know what a pullet is? [LB921]

SENATOR LOWE: Yes, I do. [LB921]

SENATOR BLOOD: What is a pullet? [LB921]

SENATOR LOWE: It is a small baby chicken. [LB921]

SENATOR BLOOD: A small baby chicken. So I'm going to call shenanigans on the fact that you said they've ordered the chickens and they can't return them, because if they're months away

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from having something done, or weeks away from having something done, they're not going to order those chickens and let them just sit there and age; they're not going to order the chickens until the facility is built. Would you say that that is probably an accurate statement? [LB921]

SENATOR LOWE: I would say the chickens have not been hatched. [LB921]

SENATOR BLOOD: All right. So they're just really going for the new things. And then the other curious thing I have is that I just want to make sure that I quote you correctly. You said that you know that Iowa accepts plants like this. That's the phrasing you used. Is that correct? I wrote it down. You said it more than once. [LB921]

SENATOR LOWE: Okay. Yes, probably. [LB921]

SENATOR BLOOD: Okay. So are we talking about chicken plants or farm buildings? [LB921]

SENATOR LOWE: Well, Costco is what I would call a plant. [LB921]

SENATOR BLOOD: Okay, but what are we talking about in this bill? [LB921]

SENATOR LOWE: We are talking about the chicken barns. [LB921]

SENATOR BLOOD: The chicken barns. So when you kept referring to these, you kept referring to them as plants, and so I'm puzzled. Why is that? [LB921]

SENATOR LOWE: Well, because these places like Costco, they need these barns, they need somebody to grow the chickens for them. [LB921]

SENATOR BLOOD: Okay. [LB921]

SENATOR LOWE: So without these barns, all chickens would have to be trucked in from somewhere else. [LB921]

SENATOR BLOOD: But this bill is about barns, not plants. [LB921]

SENATOR LOWE: It is. [LB921]

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SENATOR BLOOD: All right. I just want to clarify that, because you referred to processing plants...or, no, I thought maybe you were talking about processing plants. This bill is specifically about barns, where you raise chickens, right? [LB921]

SENATOR LOWE: This bill is about barns where you raise a lot of chickens,... [LB921]

SENATOR BLOOD: Okay, so... [LB921]

SENATOR LOWE: ...about a billion chickens...or a million chickens, excuse me. [LB921]

SENATOR BLOOD: A million tasty chickens. So, let me ask you, where did you get the numbers when you talked about the economic impact? [LB921]

SENATOR LOWE: The over a billion dollars? [LB921]

SENATOR BLOOD: Yes. Where did you get that? [LB921]

SENATOR LOWE: That came from the committee meeting. [LB921]

SENATOR BLOOD: Okay. And so where do we get that money? How do we get that money? [LB921]

SENATOR LOWE: That is money that is being brought in to build the plant, to build the barns, to make an economic impact to our state, and employ the employees... [LB921]

SENATOR BLOOD: So how do we get that? We get that when we pay the construction company? Is that what you're saying? How...what is this impact? [LB921]

SENATOR LOWE: No. No, it's also employing the employees, and the cash flow that comes and goes in through this company. [LB921]

SENATOR BLOOD: Okay, so you're...you're...so the barns are going to be built regardless, whether we pass this bill or not, because they're already in the process, otherwise they wouldn't be harassing our electrical department. True? [LB921]

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SENATOR LOWE: I would suggest that the barns are going to be built for this one; for future ones, maybe not. [LB921]

SENATOR BLOOD: And so as far as the economic impact, it's going to be identical whether this bill passes or not then? [LB921]

SENATOR LOWE: For this project, yes, but not for future projects. [LB921]

SENATOR BLOOD: Okay. I'd say that's fair. And, again, sir,... [LB921]

PRESIDENT FOLEY: One minute. [LB921]

SENATOR BLOOD: ...if they order chickens, they're probably not in a holding area, right? So we need to be cautious, because I call shenanigans on that. [LB921]

SENATOR LOWE: No, they have been ordered. I have a note that the chickens have been ordered. [LB921]

SENATOR BLOOD: Last time I ordered chicken, it would have been from KFC, so we got to make sure that it's the right place. [LB921]

SENATOR LOWE: I believe these are live, and I hope those weren't live from KFC. [LB921]

SENATOR BLOOD: At one time they were. Thank you for your time, Senator. [LB921]

PRESIDENT FOLEY: Thank you, Senators Blood and Lowe. Senator McDonnell. [LB921]

SENATOR McDONNELL: Thank you, Mr. President. As I wanted to continue talking about the State Electrical Board, and the history of the State Electrical Board, again, as we know from the letter that I passed out, they have serious safety concerns about us going further with this bill. And, as Senator Blood was emphasizing, these chicken barns are going to be built; no matter if we take any action here today, they are going to be built. Now, as Senator Lowe mentioned, in the future, we don't know if they're going to build any more. There's no guarantee if we make this change or a hundred changes to our code and take a step back in a number of different areas that they're going to ever build again. But they're going to build these barns, no matter if we take no action here today. But again, I think the people that should be taking action, I believe our subject matter experts are our Electrical Board. I would like to read a little bit about the history

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of the Electrical Board and what happened with them and why I think they're the people that should be discussing this. The Nebraska State Electrical Division was established by the Legislature with LB765 in 1969 within the office of the State Fire Marshal. The division included a five-member board appointed by the Governor with the consent of the Legislature for five years, staggered terms. In 1975, the Nebraska State Electrical Act was created. The act, Nebraska Revised Statute 81-571, provided all laws regarding electrical licensing and electrical inspection in the state. The act also increased the membership of the State Electrical Board to seven. In 1981, LB490 established the State Electrical Division as an independent state agency no longer within the office of the State Fire Marshal. The statutes were renumbered to revenue...to Nebraska Revised Statute 81-210 (sic--81-2101). Board membership included one journeyman electrician, one electrical contractor or master electrician, one certified electrical inspector, one registered professional electrical engineer, one municipal electrical systems representative, one rural electrical system representative, and one member of any of the such mentioned groups. The State Electrical Division is under the administration and operation to control of the executive director of the division. The State Electrical Board directs the efforts of the executive director and sets the policies of the division. The board has adopted the rules necessary to enable it to carry into effect the State Electrical Act. Those rules are known as the State Electrical Board Rules. We have a State Electrical Act for a reason. Since 1969, they have been developing this act. Most of the idea of codes, if you look at if it's electrical code or any other kind of construction code or fire codes, they come from tragedies. Most of the time we're not real forward-thinking. We react after the fact to a tragedy. That's what this board's been doing since 1969. They've been learning from the mistakes that we've made in this state, but they've also been learning from the mistakes that people have made around the country. Why? To take a dangerous job and make it safer. That is what this board's job is. Now we have a situation where we're at 49 senators here today. And since 1969, the Electrical Act has been put in place, we've got the board that we approve the members of that board, and now we're going to tell them we know more about this than you do. There might be a number of people in here with a background of having some electrical background, but I don't think any of us, any of us can say that we can reach the level of the seven members of the board that currently is representing us in the state of Nebraska. And when I say us as state senators, we go through the process. [LB921]

PRESIDENT FOLEY: One minute. [LB921]

SENATOR McDONNELL: The Governor appoints them, we review them, and we say yea or nay. We've said yes to these subject matter experts, and they're telling us this is a bad idea. We want Costco here. We want other businesses here. But we want them to follow our rules. We don't want them to bring in rules from other states, because it comes down to at that point they're not looking at the safety of the people of Nebraska, of the workers of Nebraska. They're looking at the bottom line. They're saying if I can come in there to the Legislature, I can get enough senators to listen to me, I can make more money. And that's what this is about. This is about

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making more money. We're not opposed to businesses moving into the state of Nebraska and making money. That's their goal. That's what it should be. But they should do it in a safe manner, and they should do it by our rules, not theirs; and they should be talking to the Electrical Board, not us. Electrical Board meets six times...a minimum six times a year. [LB921]

PRESIDENT FOLEY: Time, Senator. [LB921]

SENATOR McDONNELL: Their next...thank you, Mr. President. [LB921]

PRESIDENT FOLEY: Thank you, Senator McDonnell. Senator Lowe. [LB921]

SENATOR LOWE: Thank you, Mr. President. This is an economic generator for the state. Other companies are looking about coming into the state to see what we're doing with this. We are an ag-friendly state. These are ag businesses wanting to come to our state. This is not a safety issue. This is not a safety issue. The inspections will still be there. A licensed electrician will be on the job and overseeing the apprentices. This is a union opposition right now. We are in...Senator Blood brought up that this is a barn bill. It could be a barn-burner bill here because we will not get the barns for other potential businesses coming to our state. The electricians on site will make sure the electricity is run right. The inspection will make sure that everything is safe. We are talking about people...heck, I could probably become an apprentice pretty easy for an electrician and pull wires, because it's not that tough. I became a pipe fitter, and I did fire sprinkler systems. And three weeks after I was on the job, they put me on a job by myself to do the whole building, a four-story building. And we didn't have one leak...air tested. It was not a long process to learn how to do things right. We're talking about a very simple operation of pulling wires, of putting up conduit. Most every small-time contractor could do this. And by the way, I just believe that...was it Facebook that decided to put an addition on? How many electricians in the state of Nebraska is that going to take to wire that? Where are our electricians going to come from? Are they going to bring in outside electricians? Are they going to use up all of Nebraska's electricians to do that, to grow that business? QC Supply is a Nebraska company. They're all over the...they do business all over the country. They may bring in some of their employees from other states, so, yes, the employees may come in from other states. They would like to hire Nebraskans. They're a Nebraska company. They would like to see Nebraska develop. They would like to see these apprentices stay in Nebraska. They would like to see future growth in our state. How do we build more electricians? We employ more apprentices. We teach them how to become an electrician. We teach them the proper way. When I started in...working for people, I did not start at an upper level. I had to work my way up. In a restaurant, I was not a manager right off the bat. I was not paid a living wage. To become... [LB921]

PRESIDENT FOLEY: One minute. [LB921]

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SENATOR LOWE: Thank you. To become management, they put me through a process of working washing dishes. They put me through a process of cooking the food. They put me through a process of doing other things. This is no different. This bill is no different than anything else. You become an electrician...you become an apprentice to become an electrician. And these are not minimum-wage jobs. On an average, an apprentice will make \$15 to \$16 an hour; a journeyman, \$28 to \$45, on an average, at this job. That's not minimum wage. That's not slave labor. That's a living wage. That's a whole lot better than a thousand dollars a month, wouldn't you say? [LB921]

PRESIDENT FOLEY: Time, Senator. [LB921]

SENATOR LOWE: Thank you, Mr... [LB921]

PRESIDENT FOLEY: Thank you, Senator Lowe. Senator Brasch. [LB921]

SENATOR BRASCH: Thank you, Mr. President; and thank you, colleagues. I have supported this bill. And the amendment I need to take a closer look at here, and...but I wanted to let my colleagues know that yesterday I was at Ag Week meetings, and I was in Seward, and Senator Kolterman was there, and we toured the Pioneer seed plant, and it was so interesting. But what...how it ties in today...and actually it was Senator Linehan's niece, and Senator Linehan was there, too, is the head of the North America seed for Pioneer seeds. And they were talking about how in New York people love to hire Nebraskans. And the thing about Nebraskans is that they were not afraid to put in a new electrical box, that if you talk to someone in New York, oh, they know nothing about electricity, that the people in Nebraska were very common sense, practical, hands-on, ability to handle simple tasks. And when I did hear this bill in General Affairs, which I am in the General Affairs Committee, they talked about the tasks that they wanted them to do was basically some nonelectrical labor involved in pulling wires and things that did not require the study and the licensing, and I'm...I'm caught a little off guard, because I did introduce an electrical bill in 2013, and I'm reading over the transcripts right now, and it had to do about the learning requirements of the electrical tests and the apprenticeship and the requirements of apprentices versus the journeymen. And I will turn my light on again once I have more information and some quotes from individuals, because I do know that licensing was of a concern because of the cost involved and the fact that there was not...there were some individuals who just wanted to be apprentices and not be journeymen, that that was where they wanted to be, the jobs they wanted to do. But, again, I believe that this bill is an important bill. It will help in economic development, in our rural communities. I do know that, you know, a lot of individuals do have some basic skills, and they know better when to call, you know, an electrician to do specific tasks that, you know, are above their knowledge, their skills, on the farms specifically, and I do stand in support. And my light will be on once again because I was starting to read

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transcripts here to get a little more information. I want to thank Senator Lowe for the introduction of this bill. And I'm refreshing myself on the committee amendment at this point. Thank you, colleagues; thank you, Mr. President. [LB921]

PRESIDENT FOLEY: Thank you, Senator Brasch. Senator Quick. [LB921]

SENATOR QUICK: Thank you, Mr. President. And I do oppose LB921 and the amendment. And, you know, the one thing for me, I know it was...well, one thing I did want to address is I did hand out some literature on workplace...some of the accidents from some of the electrical accidents from arc flashes. And there was...and I think Senator Larson thought maybe they were all from linemen, but they are not. There is one picture from a lineman. The rest are workplace accidents, arc flash accidents from breaker boxes. And one was from an injury from equipment burn when he was using a piece of equipment in the workplace. And one of the reasons that I oppose this bill is because of the safety issue. You know, electricity is dangerous, no matter if it's in your home or in a chicken barn or if you're working on power lines. I mean that...electricity is dangerous no matter where you're at, and it's a danger to the worker. They're some of the most severe accidents in the workplace. And over the years, we have established electrical codes to deal with these safety standards, to make sure that the worker is protected, to make sure that that structure is protected, and to make sure that anything inside that structure, whether it be people living in it or your produce or your livestock within that structure, are also protected. And so those are some of the big issues for me. And the one thing I've heard talked about is that it's easy to put in the wiring, that's not that big of a job. Well, it all falls under the scope of practice. And it's like with any job, like you have...and I'll just use nurses, for example, because my wife is one. They have their scope of practice, and they all have to follow that scope of practice from beginning to end. And even though you may think things aren't dangerous within that scope of practice, everything that you do within that is dangerous. So if you don't pull the wiring in correctly or if you don't bend the conduit correctly, you can cause the wiring to be stripped, you can cause that to...and then when someone goes to hook up the breaker, then it causes an arc flash, and the person hooking up the wiring could be hurt. Or later on, they don't catch, because it's inside the conduit, you don't catch it at that point, an inspector can't see it from the outside because it's already inside the conduit, and then the...it causes a fire in the barn and burns down the barn or causes smoke, enough smoke that it would kill anything inside that building. One of the things I want to talk about is the 3 to 1 ratio. And that's been the scope that the electricians work under, and that's so that the apprentice can actually teach...the journeymen can actually teach the apprentice their job and what's within their scope of practice and how to do the job correctly. And it's always been for, again, for the safety factor. And in the code it says an apprentice electrician shall do no electrical wiring except under the direct personal on-the-job supervision and control and in the immediate presence of a licensee under the State Electrical Act. Such supervision shall include both on-the-job training and related classroom training as approved by the board. The licensee may employ or supervise apprentice electricians at a ratio

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not to exceed three apprentice electricians to one licensee, except that such ratio and the other requirements of this section shall not be applicable to a teacher-student relationship within a classroom of a community college. For the purposes of this section, the direct personal on-the-job supervision and control in the immediate presence of licensee shall mean the licensee and apprentice electrician shall be working at the same project location but shall not require that the licensee and apprentice must be within sight of one other at all times. [LB921]

PRESIDENT FOLEY: One minute. [LB921]

SENATOR QUICK: An apprentice electrician shall not install, alter, or repair electrical equipment except as provided in this section, and the licensee employing or supervising an apprentice electrician shall not authorize or permit such action by the apprentice electrician. For the journeyman it says, education requirements: completion of approved apprentice program in the electrical trade, or completion of an appropriate training program conducted by a bona fide union or trade association. Experience requirements: worked in the electrical maintenance field for at least 20,000 hours accompanied by a written certification by applicant's employer. A minimum of 8,000 of these hours must be practical experience. So I would disagree that this is just a job that anybody can do at any time. This is a job that requires training. It's a specialized training to make sure that everybody is kept safe on the job, to make sure they protect that structure. [LB921]

PRESIDENT FOLEY: Time, Senator. [LB921]

SENATOR QUICK: Okay. Thank you, Mr. President. [LB921]

PRESIDENT FOLEY: Thank you, Senator Quick. Senator Hansen. [LB921]

SENATOR HANSEN: Thank you, Mr. President; and good evening, now, colleagues, I guess. I rise with hesitation and concerns on LB921 and the committee amendment, AM1935. I think it's probably good as a whole as a body that we continue to look at various forms of occupational licensing. I think it's interesting for that to kind of be on the forefront now, you know, everything from equine massage therapy to kind of wholesale changes in how we review regulations. It's been an interesting topic and an interesting one. But what I know from my now three and three-quarters of a session here...years in the Legislature is that it is really hard to put some sort of regulation in statute. It is really hard to put some sort...some of these things in statute. So there must be a reason why they were in there in the first place. And that's kind of what I...I'm kind of starting from that principle. You know, some group of us back in time saw some sort of public safety risk, some sort of public concern that required this. And so especially when we're dealing in things with electricity, it's kind of concerning to me to talk about the parts of dealing with

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electricity, the parts of doing this...with some of these components that are considered not electrical, I guess, that's kind of where I'm struggling with, you know, is it's not dangerous just because it's not plugged in, even though you're doing the things immediately before it gets plugged in, when does that danger switch over? And that's something I think we kind of need to take a step back in concern. I would be interested in kind of listening more as this debate progresses. And I know...I promised I'd yield some time to Senator Quick, so with that, Mr. President, I yield the remainder of my time to Senator Quick. [LB921]

PRESIDENT FOLEY: Thank you, Senator Hansen. Senator Quick, 3:00. [LB921]

SENATOR QUICK: Thank you, Mr. President; and thank you, Senator Hansen. I received a couple e-mails from electrical inspectors in the Grand Island area, and I appreciate the information they sent me. So I'm going to read what they sent me: As an electrical inspector in Grand Island, Nebraska, I have an interest in all regulations concerning the electrical industry and public safety. I have been reading recently introduced bill LB921 concerning changes to what is allowed for farm wiring. I have no problem with defining farm wiring; when it comes to the rest of the changes being proposed, I have a great concern. I fail to see how the lives of people who work on the farms are less valuable than those in other industry. I see no reason for a different apprentice to a journeyman ratio for these installations. If three apprentices for journeymen is a proper ratio for the industry as a whole, then it is good for each individual part of the electrical industry. The number of accidents on farms is too high already. I see no reason for the electrical industry to be less stringent than we already are, causing the potential for even more accidents. If it can be proven that a 5 to 1 ratio is safe as a 3 to 1, I would say change the rule across the board, not just in one area. As someone who has overseen jobs with up to 12 electricians on site, I can tell you that the more apprentices you put with one journeyman, the lower the quality of work that happens. If the apprentices are good enough to work with each...with very little supervision, they should be able to pass a journeyman examination themselves. I appreciate your attention on this matter and hope that they...that safety can prevail over cost in this matter. And that was sent by Greg Mack, (phonetic) an electrical inspector in Grand Island. The second e-mail I received was... [LB921]

PRESIDENT FOLEY: One minute. [LB921]

SENATOR QUICK: ...good afternoon, Senator Quick...and I will punch my light, because I don't have time to read this. But I'll read that letter later and...but I think that shows a great example of what's kind of happening in the industry. You know, why would we change it for one specific set of jobs that's going on? Why don't we leave the codes where they're at for everybody? If we're going to change the codes, then you change it all across the industry, because it's just as dangerous to work on a home as it is on a chicken barn, and, actually, there's probably a...I'm

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going to say the equipment in the chicken barns probably is at a higher voltage than that in the...than in your home. But you have a lot of motors, you have augurs, you have feeders, and those type of things. So we just want to make sure that these barns are built right. I do... [LB921]

PRESIDENT FOLEY: Time, Senator. [LB921]

SENATOR QUICK: Thank you. [LB921]

PRESIDENT FOLEY: Thank you, Senator Quick. Senator Krist, you're recognized. This is your third opportunity. [LB921]

SENATOR KRIST: Thank you, Mr. President; good evening, colleagues, and good evening, Nebraska. I will continue on the Attorney General's statement from 1999, to make sure that we enter it into the record. I will repeat one section and then their final closing from the Assistant Attorney General and then start on the Attorney General's comments: Nebraska Revised Statute 81-2121 provide (sic) that nothing in the State Electrical Act shall be construed to: (p)rohibit an owner of property from performing work on his or her own principal residence or farm property, excluding commercial or industrial installations and installations in a public-use building or facility, or require such owner to be licensed under the act. Next paragraph, and I quote: Although the statute just quoted has to be more than when licensing is required of the installer, we mention it because it appears to contemplate that some farm installations may also be "commercial or industrial" in nature so as to trigger regulatory oversight. But on the other hand, it is also suggested that the Legislature envisioned that there would be some electrical installations on farm property apart from those on a farmer's personal residence which could be (sic) considered commercial or industrial in nature--which I believe this is and so did the Attorney General. New document, April 26, 1999, from Donald Stenberg, Attorney General, 2115 State Capitol Building, Lincoln, Nebraska: Dear Mr. Stenberg, I call to your attention the following sections of the electrical code, Nebraska Revised Statute 81-2124, electrical installation. Subject to installation, all new electrical installations for commercial or industrial applications, including installations both inside and outside the buildings, and for public-use buildings, and the facilities and any installation at the request of the owner shall be subject to the inspection and enforcement of the State Electrical Act. So, a farmer or a commercial property or a business interest would be subject to the Electrical Act as it exists, and subject to the inspection cycle. Nebraska Statute 81-2102, quoting again: Industrial installation shall mean an installation intended to use in manufacture or processing of production involving systematic labor or habitual employment and shall be included...include installations to which agriculture and other products are habitually or customarily processed or stored for others either by buying or reselling basic feed. So the question then becomes, and it was posed by Mr. Carlson, do the buildings owned by the group of investors fall under the scope of the above-referred sections of the State

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Electrical Act? And the Attorney General...or the...I'm sorry, the...Mr. Stenberg, at the time the Attorney General, would opine that it does, they do. Do the buildings owned by a farmer...local farmer or his property fall under the scope of the referenced section of this act? And do the buildings owned by the MBA Poultry or other of their owned properties or property owned by the others fall under the scope of the above-referenced section/act? And again, Mr. Stenberg opines that they do. So I would remind you once again, I'm not sure why, if a chicken processing plant is on one side of the road and the chicken barns are on the other side of the road, why the chicken would ever cross the road, but also why would there be different statutes in place that govern those two facilities? Because the electrical code is the electrical code... [LB921]

PRESIDENT FOLEY: One minute. [LB921]

SENATOR KRIST: ...so if we're going to tell the folks from QC that they can do that, are we also going to tell the inspector who has already been put on record from Fremont that he is not going to reduce the codes in his particular municipality? It's an interesting question and a question I think that, when we talk about local control and what we're trying to do to build businesses around the area, I would think that the city of Fremont and their inspectors would be so inclined to lower their standards because it's their folks who are going to work, it's their plant that is being put in place. So I opine that maybe we should go back to that original Attorney General's report and say, is there a compelling reason why we are doing what we're doing? And I think the compelling reason might be that, as Senator Lowe said, they've ordered the chickens. And my response to that, as has been said many times in many ways in different discussions,... [LB921]

PRESIDENT FOLEY: Time. [LB921]

SENATOR KRIST: ...then I guess they're going to have free-range chickens. [LB921]

PRESIDENT FOLEY: Thank you, Senator Krist. Mr. Clerk. [LB921]

ASSISTANT CLERK: Mr. President, a priority motion: Senator Krist would move to bracket the bill until April 18. [LB921]

PRESIDENT FOLEY: Senator Krist, you're recognized to open your bracket motion. [LB921]

SENATOR KRIST: Thank you, Mr. President. A couple of matters of primacy before I begin. Senator Larson is indeed the Chair of the General Affairs Committee, and, as such, he has the prerogative to prioritize anything he wants in terms of the committee priority, not necessarily the

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way I do business, but the committee was not consulted as to the priority of this. And I think the reflection of the vote coming out of committee and those members who are standing from the committee would attest to the fact that there were serious problems when the testimony came forward. I'm going to start reading, eventually, from the actual transcript so we start talking about QC and the position that they put themselves in. But before I do that, I want to go back to what is the State Electrical Act and the State Electrical Board rules. I think that I have a copy of them here, and I'll hand out a copy of a piece of paper that's extracted from that on my next time on the mike to make sure that you understand how serious, I believe, this particular issue is. In testimony, the...I'll just read from the transcript. Jason Luster, who is the CEO of QC Supply, came to testify on the reasonable nature by which they wanted to change the electrical code, at least his reasonable nature. They are based, as Senator Lowe said, and let me emphasize out of this transcript, based out of Schuyler, Nebraska. They recently moved their headquarters to Omaha. Actually we got our start in Schuyler. So QC Supply, headquarters in Omaha, actually got their start in Schuyler, and he's correct, it's a Nebraska business. I'm going to quickly give you a background--we're a distributor for products, consumables, and equipment products to swine and poultry industry. We have approximately, roughly, 30 locations across the country, ranging from North Carolina to Oklahoma, up into the state of Minnesota and as far south as southern Mississippi. But again I stress, our headquarters is based out of Schuyler and now Omaha. We are fortunate enough to be selected as the general contractor for the Costco/LPP production and have been working diligently with the LPP--that's the Lincoln Premium Poultry--team to move the project forward. What that means is that we've been putting together all the final details and the costs relating to the build-out of an appropriations--500 barns, as stated earlier in the testimony, that will be built around the region with this project. So there's a finite number of buildings that are now projected. We're not talking about the future; we're talking about these sets of buildings right here. And they knew the contract before they bid it. During the process, we discovered that...an area where Nebraska is completely different than any other state with respect to building barns, and that's this labor component you find in these barns as it relates to the electrical side. In other states, we have experienced...has been...in other states, our experience has been that while you have an electrician or journeyman or electrical contractor oversee and supervise a project and also are doing all the wiring, you are able to use general labor to move wire, lay wire, run conduit, run wire through conduit, and handling the other general labor pieces on the site. When we discovered this, we not only saw the cost rising dramatically--here we go, not enough profit--on the project, but our main concern became the labor price...labor piece and the availability of labor to get this large number of barns done in a short period of time--which I will elaborate on later--given to us. In the rural areas, especially, we find that there is a shortage of good electricians and even apprentices. Now, folks, later on in this transcript, and I'll get to it in the next hour or so, the jobs that we're talking about here, which Senator Lowe has correctly identified as not slave labor, but it's in the \$10- to \$12-an-hour range, \$10 to \$12 an hour, which is below a standard rate that we would be paying electricians, whether they be union or nonunion, in the state. And that's where he goes, elaborates on the fact

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that he intends to bring labor in, because we have a shortage of labor. Now at the same time that we were talking about this issue, we had both labor unions in Lincoln and Omaha, as well as nonunion--and I'll get to that transcript as well--a nonunion business owner in Omaha who said there is no shortage of labor, it's a matter of finding and connecting with that labor, to which I challenge Mr. Luster, which I will get to later as well. We are unaccustomed (sic) to utilizing general...we are accustomed to utilize labor where we meet...we go to meet the time lines in these projects--quote, Mr. Luster--and in Nebraska under current law we aren't able to do so, in our opinion. That's why we approached Senator Lowe with our legislation and asked for assistance in getting this changed. We aren't trying to cut corners--questionable, my comment. Back to quoting: We still want to do everything by the book and meet the safety requirements. Folks, he's testifying to us in committee that they don't want to cut corners, but at the same time he's asked for an increase in the joists in the building and other construction exceptions along with this electrical exception. We will follow NEC guidelines in our design specs and our blueprints and are standardized across every barn; and he wants to thank us for inviting him to talk. As far as the transcript goes from there, Senator Blood, Senator Thibodeau, Senator Quick, Senator Brasch all asked some very good and specific questions in terms of why it was necessary for him now at this point to come to us and ask us for a variance or an exception. And the interesting response, I guess, as we go through this in the next few hours, is that it was a, now admittedly in this transcript, it was an oversight on their part to assume that they could do things the way that they've done them in Oklahoma, Louisiana, and other states. How much time do I have left, Mr. President? [LB921]

PRESIDENT FOLEY: Three minutes. [LB921]

SENATOR KRIST: So I guess the point of this extended debate is to let you know that there are a few of us that believe that the codes are the codes, and that there are very few exceptions and carve-outs that we should...we attempt to bring to the table, particularly here in this Legislature. I think Senator McDonnell said it best. There are 49 of us in here, and if you're a licensed electrician, an apprentice, or anything that comes close to that, please raise your hand, because I don't think there's one of us in here that's a licensed electrician in any way, yet we're making decisions based upon what we believe we've been told. And that is our job, there is no question about it. We are self-professed jacks of all trades, masters of none. I get that. And sometimes we have to have these discussions. We're having that extended discussion today about this particular issue. But I don't...again, back to Senator McDonnell's point, if I want to know about electrical codes, I'm going to go talk to the board; I'm going to go talk to the state representatives; I'm going to talk to the guys who have been doing it for 20, 30 years. I'm going to talk to a contractor who does things within the contract, within the constructs of the codes themselves. This bracket motion is up, allowing us all to have another three times at the mike. I'm serious about it. I don't think it belongs on the floor of this Legislature. I don't think it's ready for prime time. I think it's bad legislation. And you will notice the date will take us beyond the date that we would go sine

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die, so it kills it, and there is no question that that's...I was very specific in the beginning of this conversation, as I was first on the mike after the introduction. I don't think that this bill... [LB921]

PRESIDENT FOLEY: One minute. [LB921]

SENATOR KRIST: ...should take up our time--thank you, Mr. President--should take up our time nor should it...does it deserve to be passed. Now, I was offered, when we first started talking about how to do this, many amendments that would have been dilatory in my mind, would have taken up time, but you know what? I have no ambition to make this bill any better, none. I think this one needs to go back to the committee, and that might be my next priority. So thank you for listening, and we'll see you next time on the mike. [LB921]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Erdman. [LB921]

SENATOR ERDMAN: Thank you, Lieutenant Governor. I heard Senator Krist ask if any of us were electricians and I'm not, but I did stay at a Holiday Inn Express last night. Just kidding. Anyway, Senator Lowe, I would like to ask you a couple of questions about what it is you're trying to get these people to do. [LB921]

PRESIDENT FOLEY: Senator Lowe, would you yield, please? [LB921]

SENATOR LOWE: Yes, I would. [LB921]

SENATOR ERDMAN: Senator Lowe, these people that are going to be employed to do the work, they're going to do what? They're going to run conduit? What are they going to do? [LB921]

SENATOR LOWE: They're going to install conduit, and they're going to run not live wire through the conduit, they're going to run out to the trucks or the delivery truck and bring in the material, and they're not going to do any live wire. [LB921]

SENATOR ERDMAN: So then once they've run the conduit and pulled the wire through, then it will be the licensed electrician will hook it up? [LB921]

SENATOR LOWE: The licensed electrician or the three apprentices that are...that the licensed electrician or journeyman are over. [LB921]

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SENATOR ERDMAN: So basically, these workers would be like common laborers, it wouldn't take a lot of training to do this? [LB921]

SENATOR LOWE: Yeah, the extra two would be kind of common laborers that would just be working with the conduit and wiring. [LB921]

SENATOR ERDMAN: Okay. All right. Thank you. About five years ago, my wife and I built onto our house. Tried to get a contractor, couldn't get one, so I did the general contracting myself. I hired somebody to run the cement. I did the plumbing. I hired someone to do the framing. I did all the electrical work myself. Each week, once a week, I hired a licensed electrician to come by and inspect what I had done, and he would stop once a week, spend a couple hours going over what I had done. He hooked up the electricity to the main box and he wired it into the main box so I didn't have to do that, but all the other work, I did it and he inspected it. I had done a little wiring before, but he said that every piece of work that he examined that I did was up to code and it met everything that he would have done if he had done it himself. So what you're asking these people to do is just run conduit and run wire and it's not a difficult thing. This, I don't believe, is a safety issue. What I believe this is, is a union issue. I don't believe it has anything to do with safety, because these people aren't going to work with live wire, they're not going to hook anything up. All they're going to do is common labor: go to the truck, get a roll of wire, put up some conduit, push the wire through the conduit. That's all they're going to do. Now, I don't know how that could be a safety issue. As I said, just for the record, I want to get on the record, this is a union situation. And if you are in favor of unions, you like unions, you're trying to protect them, then you need to be against this bill. Otherwise, this is not a safety issue. And so consequently we need to move forward, let these people build these barns, get these put in place so that we can have some revenue generated from all these chickens that are going to be raised here. It makes sense. So vote against the bracket motion and vote for AM1935 and then the bill, LB921. Thank you. [LB921]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Harr. I do not see Senator Harr on the floor. Senator Blood. [LB921]

SENATOR BLOOD: Thank you, Mr. President. I stand in favor of Senator Krist's bracket to move it forward to 4-18. I've got to make a statement here. I'm really concerned because now twice I've heard "union" used like it's a dirty word. We're being told that this isn't a public safety issue, that this is a union issue. You know, let's be careful how we throw that word around, because unions built this country. They took children out of factories and put them back in school where they belong. They helped women in the workplace long before anybody else did. They make sure that people like firemen and policemen, electricians have a safe work environment and have someplace that they can retire. So let's be careful how we throw that word

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around like it's a dirty word. That...I find that very concerning. So I have been listening really intensely to Senator Lowe, and I write down the things I have questions about, so don't go far, Senator Lowe. You're talking about that the reason we're fighting this bill is because it's the union opposing it. Well, we got this letter from Kevin Booker. And last I knew, Kevin Booker was the State Electrical Board secretary, not the union. And he says this is a bad idea, and he's our expert. And then I remembered reading, I want to say October or November there was a big story about this in the Omaha World-Herald, and there was like 100, 125 different farmers in a 14-county area that are going to be building these barns. Now, they're seeking permits to build these chicken barns already within a 60-mile radius of Fremont, so this bill passing or not passing isn't going to make a difference. That's already happening. Senator Kolterman's highly intelligent and capable daughter has been going around Nebraska making presentations, putting out a platform for these farmers. So the welcome mat has been rolled out and the barns are already in progress, is my understanding, or at least permission to build them from the counties is moving forward. I would ask that Senator Lowe yield to a question. [LB921]

PRESIDENT FOLEY: Senator Lowe, would you yield, please? [LB921]

SENATOR LOWE: Yes, I would. [LB921]

SENATOR BLOOD: Senator Lowe, can you tell me how many municipalities or chambers of commerce came out in favor of this bill in the hearing? [LB921]

SENATOR LOWE: No, I can't. [LB921]

SENATOR BLOOD: Were there any? [LB921]

SENATOR LOWE: Well, there is the south... [LB921]

SENATOR BLOOD: In the hearing? [LB921]

SENATOR LOWE: Not in the hearing. [LB921]

SENATOR BLOOD: Okay. So I would think with economic development, they would be all over this, wouldn't you think? [LB921]

SENATOR LOWE: I can't speak for them. [LB921]

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SENATOR BLOOD: Okay. Are you familiar with the Livestock Siting Assessment Matrix? [LB921]

SENATOR LOWE: I'm not familiar with that. [LB921]

SENATOR BLOOD: So that was a law that was passed here in Nebraska in 2015. We could maybe put one of the older...excuse me, more experienced senators on the mike right now, but it's my understanding that it allows counties to evaluate and approve operations like hog barns. So they passed this law to make it easier for these barns to be built here in Nebraska. So that's what it's about. So every tool for success has been put into place so that these barns can be made and move forward. And most of these farms are going to have four barns, it's my understanding. Does that sound right? [LB921]

SENATOR LOWE: I'm not sure how many they're going to have. I think they probably could have up to that many. [LB921]

SENATOR BLOOD: Okay. So the question that I have for you is knowing that it's moving forward and knowing that the counties are involved and approving these, why, again, do we need this bill? [LB921]

SENATOR LOWE: Future business, future business. [LB921]

SENATOR BLOOD: I'm so glad you said that, because you said other companies are watching Nebraska, right? [LB921]

PRESIDENT FOLEY: One minute. [LB921]

SENATOR BLOOD: Can you tell me what...can you name off those companies for me? [LB921]

SENATOR LOWE: QC Supply, during their testimony, said a second phase of this will probably, if this bill goes through, be in the Grand Island area. [LB921]

SENATOR BLOOD: And so QC Supply sits on the board for Costco, or how would they know that? [LB921]

SENATOR LOWE: They're the ones building these barns. [LB921]

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SENATOR BLOOD: But they're not the decision makers. [LB921]

SENATOR LOWE: No, but...information is probably let out to them. I'm not sure how they know this. I'm not privy to that. [LB921]

SENATOR BLOOD: But you said other companies. What other companies? [LB921]

SENATOR LOWE: It was mentioned that there are other, larger companies. Look...look... [LB921]

SENATOR BLOOD: But none were named. [LB921]

SENATOR LOWE: Not named, no. [LB921]

SENATOR BLOOD: Thank you, Senator Lowe. [LB921]

PRESIDENT FOLEY: Thank you, Senators Blood and Lowe. Senator McDonnell. [LB921]

SENATOR McDONNELL: Thank you, Mr. President. Unions bring meaningful democracy to the workplace. That's what unions do. We have union and nonunion electricians that are opposing this bill. It has to do with the State Electrical Board/Act. And when we talk about apprentices, let's make sure we understand what we're talking about. As defined on page 10 of the Nebraska State Electrical Act, apprentice electrician means any person, other than a licensee, who as such person's principle occupation is engaged in learning and assisting in the installation, alteration, repair of electrical equipment as an employee of a licensee who is registered with the board. Learning and assisting, that's what they're doing. That's what their goal is. And every day they're going to get better. Every day they're going to learn something that makes them safer. But it is dangerous. The idea that it's been discussed that, well, there's not enough journeymen in the state, there's not enough apprentices in the state, there's not enough people that want to do the work, that's just flatly not true. There's at least 25 in Lincoln that are waiting for work. There's at least 20 in Omaha that are waiting for work. And then we talk about when does that work grow? And we all want to grow the state of Nebraska; we want to bring more businesses in; we want to build. Let's talk about 2015 when they were building the Google data center in Council Bluffs: 2,000 construction workers, 2,000 at the time; investment was \$1.5 billion in the Lake Manawa area; a 975-acre site opposite a Mid-American energy plant. At that point, there's 2,000 construction workers and 1,000 of those workers were what we call travelers. They needed more electricians; they needed more skilled labor people. They put the call out and people came from around the country, 2,000, half of them, roughly, coming from around the country. There is no

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problem getting workers here, getting skilled workers here. So if someone is trying to tell you that, that's just not true. Now we get back to the idea of do we want to listen to Costco? Do we want to listen a union electrician, a nonunion electrician? Why don't we listen to the people that the Governor has appointed to the State Electrical Board that we have vetted, that we have approved, and follow their advice? Let's go back to the idea that they sent us a letter and said, why didn't the people come to the board and ask what may be considered as a workable solution? They instead went straight to a senator to change the law that would bring in out-state nonqualified installers rather than to use the Nebraska work force. In closing, we believe this is a serious safety concern. [LB921]

PRESIDENT FOLEY: One minute. [LB921]

SENATOR McDONNELL: They are the subject matter experts. They are the people we should be listening to. We want them to build. And they are going to build. We take no action here today, they will build. This is going to happen in the state of Nebraska. As we talked about before, there's no guarantee that we would make all these changes, a hundred changes, and they'll build ever again here. The idea that we want them here, we want them to build, but we want them to follow our rules, our safety rules, would have been put in place by this board since 1969. We want to make sure that the people working here are as safe as possible. And going from a 5 to 1 ratio now to a 3 to 1 ratio has nothing to do with safety. It only has to do with the profit margin. It only has to do with the idea that they're going to make money on this project, but now we're going to take a step back and say just so they can make more money. That's what this has to do with. [LB921]

PRESIDENT FOLEY: Time, Senator. [LB921]

SENATOR McDONNELL: Thank you. [LB921]

PRESIDENT FOLEY: Thank you, Senator McDonnell. Items for the record, please. [LB921]

CLERK: Thank you, Mr. President. Communication from the Executive Board regarding the designation of LB944 as a major proposal. I have new A bills: Senator Blood offers LB894A. (Read LB894A by title for the first time.) I have LB686A by Senator Blood. (Read LB686A by title for the first time.) Revenue Committee reports LB738 to General File with committee amendments attached. I have new resolutions: Senator Watermeier, LR354 and LR355; both will be laid over. (Legislative Journal pages 1042-1044.) [LB944 LB894A LB686A LB738 LR354 LR355]

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Mr. President, Senator Erdman would move to recess the body until 6:30 p.m.

PRESIDENT FOLEY: Members, you heard the motion to recess until 6:30. Those in favor say aye. Those opposed say nay. We are in recess...6:30.

RECESS

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Good evening, ladies and gentlemen. The evening session is about to reconvene. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

PRESIDENT FOLEY: Thank you, Mr. Clerk. Any items for the record?

ASSISTANT CLERK: Not at this time.

PRESIDENT FOLEY: Thank you, sir. Continuing debate, Senator Hughes, you're recognized.
[LB921]

SENATOR HUGHES: Thank you, Mr. President. Good evening, colleagues. I certainly want to weigh in on this bill. I am opposed to the bracket motion. Nebraska has been given a very unique opportunity with this Costco plant coming to northeast Nebraska. We have the opportunity to showcase what Nebraska can do. It's very clear that Nebraska has the land mass, we have the corn, the soy beans with which to produce, you know, huge numbers of chickens for processing. We certainly have the ability to build a plant. But what we really need to show the rest of the country and potential investors or potential companies who want to come here and invest is our ability to get the job done quickly. It's critical that we have things in place. You know, any of us in business, we understand logistics, that you can't have a crew waiting on something else before all the pieces are there. That's one of the things that as a farmer makes me very antsy is if I have a job to do and I don't have the things in place to do it. It's like when you go to plant corn, seed corn hasn't arrived, you don't have fertilizer in place. Those are the things that...what this project...what this bill does. It's true that the barns are going to get built, there's no question about that. But we need to make sure that we do it in a timely fashion, that we have the labor force that's in place that can get it done quickly. One thing that was brought up over the break is that the Electrical Board was neutral on this bill in committee, then when there was a change made that addressed safety they changed to opposed. That's interesting. I think the change was

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probably to make safety better, not worse. The amount of chickens that are going to be used here, there is a two year in advance and that's key. These operations like this, whether it's chickens or I've got a hog facility out in my district in Hayes County, they are very specific on the type of animals they want. They have spent a lot of time and effort in making sure they get the quality animal that they want and that consistency is what sells broasted chickens in Costco. That's what sells bacon in other stores. That's why these companies are going to that is because the consumer is demanding quality, consistency, and quantity. This bill is very important for the next round of development, whether it's chicken barns, whether it's hog barns because, quite frankly, in most of rural Nebraska those are the things we have to work with. We have space; we have grain; we have water--we've got tremendous water. [LB921]

PRESIDENT FOLEY: One minute. [LB921]

SENATOR HUGHES: Those are the natural resources we have to develop with. If we want this state to grow, those are the places we need to start. That helps rural Nebraska. Thank you, Mr. President. [LB921]

PRESIDENT FOLEY: Thank you, Senator Hughes. Senator Larson. [LB921]

SENATOR LARSON: Thank you, Mr. President. And I think Senator Hughes hit a lot of things very well. This is...it's being billed a lot and maybe the general public that's out there listening is all about Costco. Colleagues, the building, the main building that will be built, yes, it...that's not what this is about. This is about all the small producers that are going to be having buildings developed so they can ensure that they can get the chickens to the larger facility. These are the small farmers and ranchers in Senator Walz's district that are looking at this as economic growth. And I hear Senator McDonnell and others discuss about this is all about money. Well, I'd turn that back to them and say, yes, that's why he's opposing it, the unions are opposing it. We hear about how all these workers need jobs. There will be jobs in the state of Nebraska with this. But, specifically, that's why they're opposing it. It's about the money. I was reading an article, and I mentioned it early in the debate about the occupational licensing, and we continue to hear about the Electrical Board and they oppose it and they know what's best and it brought me back to the article. And there was a quote in there that I thought was particular to this and specifically with that argument that's continuing to be made and it's from...it's an article from The Economist and it says: It is often the...it is often practitioners themselves who define and expand the boundaries of a regulated profession. That is what we have here. We have a group of individuals that have defined and expanded the boundaries for their own regulated profession and they don't want that infringing upon. And the article continues to go on and specifically talks about the American legal structure as well, but the reference was all professions that do this. But they talk about how lawyers in America have actually made the cost of justice in America rank 96 out of 113

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countries around the world because of the protections that lawyers have put on themselves. And, essentially, that's what I view the Electrical Board doing here. We have created a body that creates the rules and expands the rules for themselves to protect themselves. I had a conversation with Senator McDonnell earlier this session about one of the fights that his fire union had with paramedics and what the fire union could do in terms of, I think it was, putting IVs into individuals that needed help and how that that was essentially, again, a scope of practice issue that one group didn't want to infringe upon another. That's what LB921 boils down to. We are talking about pulling dead wires and installing conduit runs. They're not doing the electrical boxes. They're not working with hot wires. This isn't the main, big Costco facility. These are small barns... [LB921]

PRESIDENT FOLEY: One minute. [LB921]

SENATOR LARSON: ...for small agricultural producers. I think there's going to be nearly 500 of these. And if we do...if we are lucky enough to get a second facility in the state of Nebraska, if we can pass LB921 and we are lucky enough to get a second facility, then we're going to look at another 400 to 500 of these barns going up and these are very important for agricultural producers. We just saw an article in the World-Herald a couple weeks ago about the pig facilities and how they're...young farmers are using what we did with LB176 two or three years ago and we passed that bill and how young farmers are using that to diversify and actually saving their farming operations while commodity prices are so low. This is another opportunity that they could use... [LB921]

PRESIDENT FOLEY: Time, Senator. [LB921]

SENATOR LARSON: Thank you. [LB921]

PRESIDENT FOLEY: Thank you, Senator Larson. Senator Kolowski. [LB921]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. I wanted to chime on this discussion in a couple of different ways here. I'm in opposition to LB921 as well as the amendment dealing with it and support this bracket motion as well. My own experience would go back to the opportunity I had as an administrator in the Millard schools to build a high school that by all estimates at the current time would be about \$80 million and holds 2,500 students. It grew over the 1995 opening date to the present time and I had an opportunity to have the first 15 years as the principal of that building, the first two years working with the community and as central office to work with the construction of the building. And from the first dirt that was turned on the 64-acre site to the final opening day, that was '93-95. During that time I had a great opportunity to work with all the professionals that were building the building. And I say that very directly and very honestly the

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amount of things that I learned...I thought I knew a little bit about construction and all that goes into a project such as this, but I had a great opportunity to work on a daily, but also on a weekly meeting basis with those that were building the building, the architects, the designers, the planners, the head honchos of each of the unions that were involved in the project of building the building. And that experience, especially with the electricians and the bricklayers, was one that was very close to my experiences doing some other things in my life at different times. Those professionals...and we had about 15 bricklayers, for example, and a crew of about a dozen, 13, 14 electricians that were working on this facility in its first phase; we've added about four additions to that since that time to make it about the \$80 million project that it is today. But that was really important to get to know those folks and how they are working and how the plans were being instituted as far as putting a building together. It was a great experience and one that I'll long cherish. My admiration for the professionals, all union members, all trained, all certified with the unions in their respective areas, was quite a difference with the professionalism they had and how they went about their business and doing things in a very efficient and cooperative way to get the job done in as much time as it took in the two years to build the building from the ground up. That experience taught me a great deal. It taught me about the professionalism of the unions, their dedication to their tasks, the rigor of the experiences that they were providing for their young members within their group and how much we were able to accomplish week by week, month by month over that two-year time period to put the two-story building together... [LB921]

PRESIDENT FOLEY: One minute. [LB921]

SENATOR KOLOWSKI: ...and have it ready for the students to come in. I think it's a mistake if we don't have that kind of quality of construction going on in a project that we are bringing to Nebraska, that we thought it was going to be different. And I think we have an opportunity to correct that and go in a direction that is extremely important, not just for those union members but for their families, for the salaries they'll be making, and for the direction that we'll have as far as final results on the project to bring this chicken-producing plant and "residencies" for all these chickens to roost in the area by Fremont and any others that we might bring about in the future. Thank you very much. [LB921]

PRESIDENT FOLEY: Time, Senator. Thank you, Senator Kolowski. Senator Quick. [LB921]

SENATOR QUICK: Thank you, Mr. President. And I just...I put a handout out to show what happens when conduit and wiring is put in the wrong way and...because what can happen is, as you're pulling that wiring through the conduit, you can strip or stretch the wire, which causes the insulation to be removed, which allows for the electricity to ground out to the conduit. And in those pictures, this is...actually these are chicken barns in Oklahoma. And there was two of them

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that within the first year of construction actually caught fire because of electrical hazards and both were from the wiring inside the conduit. And these barns were 66 feet wide and 600 feet long. I think it's similar to what the barns are going to be built for the Costco plant. So these aren't small buildings, they're going to be very large buildings. They have a lot of equipment inside them, electrical equipment. They have large fans to remove the moisture, so you're going to have a high moisture content inside the building itself from the livestock, from the chickens, and so you need the fans to remove that. You need to make sure that all of your wiring is done right, that the conduit is sealed up and your junction boxes are sealed so that moisture can't get inside and allow for grounding. So these are some of the things that need to be addressed as far as keeping it one journeyman to three apprentices so that they will know how to do the work properly and then we don't have fires in buildings and...or a workplace accident where you have an arc flash. I read one letter from an electrical inspector from Grand Island and I have a second one that I wanted to read. And, again, I wanted to thank both of them for sending me these e-mails. And this one is: Good afternoon, Senator Quick. As an electrical inspector for the city of Grand Island, I would like to share my concerns of the potential passing of this bill. The city of Grand Island has a two-mile jurisdiction outside the city limits where we encounter farm buildings. It is truly a farm building, not a commercial feeding operation, and we would not require a permit or electrical inspections. The type of buildings that are the initiation of this bill I believe would be commercial feeding and require permits and inspections. As inspectors, we are limited to the amount of time we can spend in the field on inspections, so we heavily rely on trained electricians in the field to complete the electrical systems safely and be code compliant. My concern would be is if we start making special rules to allow less supervision of qualified persons, what quality of product would these installations turn out? Unfortunately, my experience has shown me that installations installed by unqualified persons will work for some time, then start having problems after the contractors have moved on to their next project. Then the owner has no choice but to hire another individual to make corrections to the original installation, costing him more money in the end. If you have any comments or questions...he asked me to please contact him. And this is one of the issues that concerns me, too. So after they've built these buildings and they move on to the next building and then the chickens are brought into the buildings and then they have an electrical fire of some kind at some point, who is responsible for that? It's not going to be the contractor. They're not going to come back. So is the farmer held responsible to replace that wiring that's gone bad because of low-quality work? We want to make sure that these buildings are wired right. You know, I talked about workplace safety. I talk about the safety of the people who will be working in that building after the chickens are there, plus the chickens inside the building themselves and the protection of the structure so...and then now you have the farmer who could be liable for making sure that that is done correctly. Now, I have heard some talk that this is, you know, strictly union people opposing this. Now, you all know I am and I was an IBEW president. And just for your information, the IBEW was actually formed back in 1891. And the primary reason was that there was a three-year life expectancy for linemen on the job. And that means that they would die from

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a workplace accident within three years of being hired on. That's how dangerous the work was and... [LB921]

PRESIDENT FOLEY: Time, Senator. [LB921]

SENATOR QUICK: Oh, thank you. Thank you, Mr. President. [LB921]

PRESIDENT FOLEY: Thank you, Senator Quick. Senator Krist. [LB921]

SENATOR KRIST: Start with just...thank you, Mr. President. And good evening, colleagues and Nebraska. I'll start with just a few cleansing breaths. It's been brought up several times that in the hearing someone had alluded to the fact that we need to do this because we need to clear the way for future projects. Transcript page 95, General Affairs, January 22, 2018, Senator Larson: So as they're targeting, watching things like LB921, we're looking at Grand Island or Kearney or Iowa for the next one, as essentially judging by their location? Jessica Kolterman: Well, they would be looking at something within 100 to 150 miles, would be my speculation. Senator Larson: So though we got the first one without something new, it might be a company like Costco or any other company. Jessica Kolterman: Or it could be any company. Senator Larson: Any company that's looking at these types of facilities would say that I see Iowa has a carve-out. It might be more beneficial for them over there instead of Grand Island and we have to consider that we would move forward with things like that. Jessica Kolterman: Right now our company is focused on growing this one and doing it successfully, exclamation point--my word--successfully. We want to make sure that as what happened in Oklahoma does not happen here in Nebraska and that means compliance with codes and that means making sure that we do it the right way the first time so that we don't have the issues. In the subject of inspection, in order to have the power hooked up after the laborers--as it is being suggested--would string the wires and put everything together and a licensed electrician would be ready to pour the juice on it, there would have to be a permit that is applied for. So there would have to be at some point an inspection, given the current situation. This situation by this committee amendment and the bill would not and does not specifically enumerate how that was going to happen or if an inspection or a permit would happen in that case. And now I will tell you that consulting with the inspectors, if the permit does not happen and the juice is hooked up, then the liability goes from the property owner, the barn owner, the contractor, and without an inspection goes directly to our public utility. Can I say that again? Directly to our public utility, OPPD, NPPD. So that's why the folks in Fremont are very insistent that the process happen the way that it happens and that the codes are adhered to very specifically, because they don't want the liability. I handed out to you item 3--in my time, this time on the mike--I handed out to you A-1, which is an extract from the Appendix A. I put my initials on it and I also labeled at the top of it, for those of you who have been calling this a union issue, it is nonunion. It is an extract from the National Guidelines for Apprenticeship

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Standards, Independent Electrical Contractors, Inc., National Apprenticeship and Training Committee for the occupation electrician, 47-2111.00, Rapids Code: 0159. Developed in cooperation with the United States Department of Labor Office of Apprenticeship. Approved and Certified by the U.S. Department of Labor Office of Apprenticeship. By: John V. Ladd, Administrator, Office of Apprenticeship. Certificate Date: May 17, 2013,... [LB921]

PRESIDENT FOLEY: One minute. [LB921]

SENATOR KRIST: ...Certificate Number: C-2013-04. And I bring to your attention that when you're training to be an apprentice--and this is back to Senator Lowe's point earlier--we have to build electricians by giving them experience and teaching them. If you look at this, it's a one-to-two ratio to actually train. It's actually a one-to-two ratio. So take a look at what it takes to properly train an apprentice and move him forward. I quote in 2. Ratio of apprentices to journeyworkers: The number of apprentices employed on a given job site shall not exceed a ratio of two apprentices for each one journeyman. I'll talk to you next time on the mike. See you next time. Thank you. [LB921]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Bolz. [LB921]

SENATOR BOLZ: Thank you, Mr. President. Earlier on the mike Senator Hughes talked about how this is an economic opportunity for us and Senator Lowe has talked about how this is about economic growth. And I do believe, of course, in agriculture as being an economic driver in our state and as something that's important to our economy. However, I'm not sure that this piece of legislation is what is essential for moving forward with this initiative or for moving forward with an economic vision as it relates to agriculture and poultry development in the state. Instead, I would draw your attention to the things that we have already done related to this project. And Senator Hughes talked about it as an opportunity. And I would say that it's an opportunity that we have earned, that we have earned through existing public policy because it is our public policy that is already in place that has brought this initiative forward. First, as I mentioned on the microphone earlier, the Costco project is in fact on the list of Nebraska Advantage Act applications. They applied this year, so the 2017 report comes out in July that will illustrate the tax credits applied for and that Lincoln Premium Poultry and this project is seeking. So that policy is what helped to drive economic growth and agricultural growth in our state. In addition to that, local policy and our state policy allowing some of these things to move forward is what has made economic growth policy in this area...economic projects in this area possible. The city council approved \$13.5 million in indebtedness in the form of tax increment financing. They...under the agreement Costco will apply for \$1 million in incentives to be used for utility costs through Fremont's local option economic development plan. And the city council approved an agreement with Dodge County under which the county would contribute \$1 million towards

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roads and other improvements to the development site. So, colleagues, our public policy is already moving forward economic growth for the agricultural industry for projects just like this one, and I don't think that LB921 is necessary to make that vision happen. On the contrary, I don't think it's necessary at all, because when we take a step back and we think about the premise about this underlying idea that it will be easier for these projects to hire people, we turn a blind eye to the idea that there are already over 7,000 registered electricians in the state. And sometimes those become talking points, sometimes those become numbers, sometimes those become statistics. And so I wanted to share with you that the list of those individuals is publicly available, and these are real folks: Scott Boyce who lives at 3716 "S" Street in Omaha; Christopher Lesiak, who's one of my constituents, who lives on South 38th Street here in Lincoln; Dylan Rhoads who lives in Columbus. I'm sure that all of these people would appreciate an opportunity to use their skills to help our agriculture industry grow and thrive. And they are skilled and licensed and ready to work. And so taking the safety standards and the licensing standards down a notch through policy like LB921 I don't think is necessary for economic growth. I think we have done a lot for these projects, and I think \$13.5 million and \$1 million and then another \$1 million... [LB921]

PRESIDENT FOLEY: One minute. [LB921]

SENATOR BOLZ: ...and incentives through the economic...through the Nebraska Advantage programs, those are all significant policy strategies that we have used to support this project and LB921 isn't necessary. Thank you, Mr. President. [LB921]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Schumacher. [LB921]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I've been trying to understand what's going on here, and I'm not sure if I got it right, but we've been talking about these guys called apprentices. What's an apprentice? And as I understand it, and somebody surely can correct me if I'm missing the boat here, an apprentice is somebody who says he wants to grow up to be an electrician and files a paper, some kind of introductory paper saying, yeah, I want to start learning the electrical trade. And then he goes to work under somebody with a little more rank and experience and license called a journeyman, and then there's people above him just like I suppose there is in the Army. And whether we pass this bill or not, I can't see how it's going to reduce or increase the number of apprentices. You're going to have to have so many hands working on the project in a certain period of time. So this isn't about apprentices. There's not going to be fewer hands needed. They're not going to work faster. There's a fixed number of hands needed to construct these barns. So it has nothing to do with apprentices, nothing to do with the people stringing the wire. That's got to be done and it's going to be done the same rate no matter which way we do. The bill doesn't change that, I don't think. What it does change is

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the next level up. And that's this journeyman guy who is really a supervisor. And this journeyman guy can be union, it can be nonunion. It is probably your local electrician in most smaller communities. And those folks have been here a long time and when a nice project comes to town, they deserve a right to make a little money off of it. They've grown their roots here. And is it fair now for us to step in and say, you know what? We're going to reduce the demand for your services, "Mr. Journeyman" or "Ms. Journeywoman"--I don't know--but we're going to reduce the demand for your services so that you cannot get in the marketplace what you had deserved before we did this. Is that fair? Would we do that to any other business under any other circumstance, try to cheat our local folks--union or nonunion--out of a market position that they've been in? And then I'm bothered about something else. From what I understand for this committee testimony, here comes Costco, Costco lets a bid for a general contractor--hey, somebody give me a bid to build these barns. Fine. And this outfit called QC Supply, once upon a time out of Schuyler but now moved to the big town, they put a bid in. And they say: We'll do it for this, we'll go out and we'll farm it out, we'll hire the subcontractors. Costco, you look to us, you give us a check for this amount, and we will do the rest. Now, it's odd that QC Supply, Nebraska company, didn't know the Nebraska rules. Knew it in some of the 30 other states they operate under, but not the Nebraska rules. And they goofed. It isn't quite as profitable as they thought it would. And maybe by that goof, they got the bid because they came in with a lower bid than another bidder that did their due diligence properly. And so maybe Costco got cheated in this deal by getting somebody who wasn't quite on the ball as the next highest bidder. And now QC Supply is coming in, saying, whoops,... [LB921]

PRESIDENT FOLEY: One minute. [LB921]

SENATOR SCHUMACHER: ...Legislature, fix this for us, restore our level of profits so we don't have to pay as many journeymen, as many supervisors, and we can come in, in time. Apparently there's plenty of these journeyman guys and gals walking around, and that's not an issue. So I kind of think what we're seeing here is being asked to change the rules of the game after the game has gone in play. And we're cheating the people that QC Supply beat out, we're cheating Costco and these future employers out of fair bidding process, and I don't know if that's right. And I kind of think that you shouldn't change the rules of the game after the game starts to be played. Change it for the future, I don't care. But for this game, it's in play and we shouldn't change the rules. [LB921]

PRESIDENT FOLEY: Time. Time, Senator. [LB921]

SENATOR SCHUMACHER: Thank you. [LB921]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Pansing Brooks. [LB921]

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SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. I rise in support of the bracket motion. You know, I can't quite understand why we're having discussions about union versus nonunion and, number one, it's all...the unions are discussed with almost derision in the voice. And I'll tell you that the union members I know and the workers that I know in these areas are salt-of-the-earth people. They should not be looked at askance. They have helped to build our state, and to talk about them in any terms other than with complete support is beyond anything I can understand, number one. Number two, we are a right-to-work state. So even though, as Senator Krist pointed out and handed out a sheet that shows that even the nonunion contractors have said that they have rules that shall not allow exceeding a ratio of two apprentices to each journeyman or electrician, you know, it doesn't matter. We are a right-to-work state and whether you're union or not, you're still represented in union negotiating. And I think that Senator Quick will speak to that a little bit more--you don't have to pay dues in Nebraska, that we are unique in that--but they still are represented by unions and by the union organizer. So what we're talking about is economic growth and dollars. And my opinion is that we need the most dollars in the most pockets. Making sure that the most dollars are put in just a couple of the pockets, to me, doesn't make any sense. How many pocket...how many pairs of jeans can a CEO of CS (sic--QC) Supply buy versus making sure that our workers are paid fair wages and that our workers can get appropriate rather than...appropriate wages rather than trying to skimp on their wages? These are Nebraskans we're talking about. And we need to make sure, because I'll tell you that the union people and the nonunion workers can buy a lot more pairs of jeans or food or fill in the blank than the couple of people at CS (sic--QC) Supply. So I am going to fall on the side of protecting our workers, making sure that economic development thrives in our state by protecting those who are working the hardest to help us grow and to help us move forward as a state and to thrive. And with that, I'd like to give the rest of my time to Senator Quick. [LB921]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Quick, 1:45. [LB921]

SENATOR QUICK: Okay. Thank you, Mr. President, and thank you, Senator Pansing Brooks. One thing I want to clarify on the CIR and right to work is the fact that organized units, because of right to work, we still represent the workers within that organized group, but we do not represent the units that...or electricians that wouldn't be organized, but just to clarify and make sure that that's on the record correctly. And you know, one of the things that I didn't finish up on is that the actual first president of the IBEW, Henry Miller, actually he was president for...I can't remember the number of years... [LB921]

PRESIDENT FOLEY: One minute. [LB921]

SENATOR QUICK: ...but it was a short minute of time or a short few years. And then he went back on the job and actually we were formed in 1891 and on July 10, 1896, he died from

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electrocution at a workplace accident. So I mean, that's the kind of dedication he had. He tried to help us get organized and then he went back into the workplace and tried to help others. And that's what I've tried to do. When I worked for the city of Grand Island in utilities I sat on two different safety committees to make sure we could protect the workers within the city. And I represented everybody. I sat on a citywide safety committee that we had representation from police, fire, public works, the utilities, city hall, all areas. And then I also sat on a utility safety committee, which we oversaw all the safety aspects from the utilities department. I know we worked really hard to... [LB921]

PRESIDENT FOLEY: Time, Senator. [LB921]

SENATOR QUICK: Thank you, Mr. President. [LB921]

PRESIDENT FOLEY: Thank you, Senator Quick. Senator Harr. [LB921]

SENATOR HARR: Question. [LB921]

PRESIDENT FOLEY: Question has been called. Do I see five hands? I do. The question is, shall debate cease? Those in favor of ceasing debate vote aye; those opposed vote nay. Senator Harr. [LB921]

SENATOR HARR: I request a call of the house, please. [LB921]

PRESIDENT FOLEY: There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please. [LB921]

ASSISTANT CLERK: 18 ayes, 2 nays to go under call. [LB921]

PRESIDENT FOLEY: The house is under call. Senators, please return to your desk and check in. The house is under call. All unauthorized personnel please leave the floor. The house is under call. Senator Harr, when the members are all present, you can accept call-in votes or a roll call vote. [LB921]

SENATOR HARR: Call-ins, please. [LB921]

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PRESIDENT FOLEY: That will be fine. Senator Geist, check in, please. Senator Kolterman. Senator Clements, check in, please. Senator Clements, check in, please. Senators Kuehn, Walz, Murante, please return to the floor and check in. The house is under call. The question before the body is whether or not to cease debate. Senator Harr has indicated a willingness to accept call-in votes. A "yes" vote ceases debate. [LB921]

ASSISTANT CLERK: Senator Hansen voting yes. Senator Ebke voting yes. Senator Quick voting yes. Senator Wishart voting yes. Senator Vargas voting yes. Senator Smith voting yes. Senator Chambers voting yes. Senator Scheer voting yes. Senator McCollister voting yes. Senator Clements voting no. Senator Brasch changing to no. Senator Briese changing from yes to no. Senator Groene voting no. Senator Albrecht voting no. [LB921]

PRESIDENT FOLEY: Record, please. [LB921]

ASSISTANT CLERK: 22 ayes, 12 nays to cease debate, Mr. President. [LB921]

PRESIDENT FOLEY: Debate does not cease. We will continue with the discussion. Senator McDonnell. I raise the call. [LB921]

SENATOR McDONNELL: Thank you, Mr. President. We have to make sure that we understand when we talk about the State Electrical Act, it has nothing to do with if you're a union member or not--nothing. It talks about what is required to be an apprentice, to be a journeyman. And I'm going to read what it takes to be a journeyman. "An applicant for a journeyman electrician license shall have at least four years' experience, acceptable to the board, in the electrical trade. Registration as an apprentice electrician for those years shall, on the approval of the board, constitute evidence of such experience. The board may by rule or regulation provide for the allowance of one year of experience credit for successful completion of a two-year post-high school electrical course approved by the board." Again, everything is coming back to the board. Senator Larson had mentioned a conversation earlier tonight about a conversation I had with him that had to do with the fire service. There was a time when the fire service in Omaha...you had emergency medical technicians and you had paramedics. There was no emergency medical technician I level, intermediate level. So we were discussing what was best for patient care, and when I say we were discussing, it was the subject matter experts. It was the firefighters discussing this. It was fire management. It was fire union discussing this, the subject matter experts, just like the people that make up the State Electrical Board are our subject matter experts. It wasn't the Omaha City Council saying, hey, we're going to come up with an idea of an intermediate, and we want you guys then to go ahead and change your rules as the experts and follow what we're telling you as the city council. It didn't work that way. This was brought by the firefighters working together to say, okay, we are going to try to improve patient care, how can

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we do that--always about the patient. Now we have a situation to where we're going to have a state law because of Costco--which I want Costco in the state of Nebraska. I want a number of businesses in the state of Nebraska. I want them to build things here. I want to do it safely. I want to follow the code. I don't want to take a step back. Now, remember we're talking about who's going to work on that project. You don't know if it's going to be a union person or a nonunion person. We are...know they're going to be trained, though, and they're going to be certified according to the Nebraska Electrical Act. We know that. This is not a union, nonunion. I've had both union and nonunion say the same thing. This is not what we should be doing. This is not the step in the right direction for our state. Now we talk about different states and rural versus urban, and you look at the board. You look at the board and the people that are serving on that board. They're from Norfolk, Lincoln, Bellevue, Crete, Omaha, two from Omaha and one from Seward. These people are telling us this is not the right decision. They took a position. It was said earlier during the hearing they were neutral. After that, according to the letter I handed out, as of March 9, they took a position as the board. They said passing this bill will create serious safety concerns. [LB921]

PRESIDENT FOLEY: One minute. [LB921]

SENATOR McDONNELL: These are people that this is their area of expertise. As I said earlier when I talked about them, these are rural electrical system representatives, certified electrical inspector, journeyman electrician, municipal electrical system representative, licensed electrical contractor, registered professional engineer, licensed electrical contractor, two of them. I mean these aren't...these are people that of course want the business in the state of Nebraska and they've been part of a board that was started in 1969. They're saying we have to build these things correctly and as safely as possible. That's what they're telling us. But we're going to sit here as state senators... [LB921]

PRESIDENT FOLEY: Time, Senator. [LB921]

SENATOR McDONNELL: Thank you. [LB921]

PRESIDENT FOLEY: Thank you, Senator McDonnell. Before proceeding further, items for the record, please. [LB921]

ASSISTANT CLERK: Thank you, Mr. President. Your Committee on Health reports LB681 to General File with amendments; LB731 to General File with amendments; LB788, LB790 and LB924 all to General File with amendments. In addition to that, an amendment to LB640 from Senator Groene. That's all I have at this time. (Legislative Journal pages 1045-1046.) [LB681
LB731 LB788 LB790 LB924 LB640]

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PRESIDENT FOLEY: Thank you, Mr. Clerk. Continuing discussion, Senator Lowe. [LB921]

SENATOR LOWE: Thank you, Mr. President. Question. [LB921]

PRESIDENT FOLEY: The question has been called. Do I see five hands? I do. The question is, shall debate cease? Those in favor of ceasing debate vote aye; those opposed vote nay. Record, please. [LB921]

ASSISTANT CLERK: 26 ayes, 1 nay to cease debate, Mr. President. [LB921]

PRESIDENT FOLEY: Debate does cease. Senator Krist, you're recognized to close on your bracket motion. [LB921]

SENATOR KRIST: Thank you, Mr. President. So it just depends upon who calls the question as to how you get the question called. The bracket motion is in place. I would ask you if you want to move on with other agenda items that we bracket the bill and we move on. I would remind you that we have a dual standard here. One is the actual processing plant in Fremont, and that inspector will hold to the code regardless if we change for the other plants, the other barns or not. I would remind you that there is a board that makes decisions, that actually does know what they're talking about. They're not state senators. They're not reading into the issues. If this is about personality, we'll see if that happens. I would ask you, also, to consider that the issue at hand here is not Costco. The issue at hand is not even QC who, by the way, as Senator Schumacher said very well, are changing the rules in the middle of the game. But the issue is the building codes that we live by. And once again we are talking about the difference between adherence to the codes, playing by the rules, not playing by the rules. I could make a reference to personalities again, those who don't play by the rules, and those that want to always excuse the rules. I won't. I think that what we're talking about here is the adherence to the codes, and we have had all the experts' opinions that we can have, including those who are not qualified to call themselves experts. I'd ask for a call of the house, and I'd ask for a green vote on your bracket motion so we can get on with life. [LB921]

PRESIDENT FOLEY: Thank you, Senator Krist. There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please. Record, please. [LB921]

ASSISTANT CLERK: 29 ayes, 2 nays to go under call, Mr. President. [LB921]

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PRESIDENT FOLEY: The house is under call. Members, please return to the Chamber, check in. The house is under call. Unauthorized personnel please leave the floor. The house is under call. Senator Hilkemann, check in, please. Senator Thibodeau, Geist, Kuehn, Hilkemann, please check in. The house is under call. All unexcused members are now present. The question before the body...Senator Krist. [LB921]

SENATOR KRIST: I'd like a roll call vote in reverse order, please. [LB921]

PRESIDENT FOLEY: A roll call vote has been requested in reverse order on the question of whether or not to bracket the bill. Mr. Clerk. [LB921]

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal page 1047.) Vote is 15 ayes, 23 nays on the motion to bracket, Mr. President. [LB921]

PRESIDENT FOLEY: The motion is not successful. I raise the call. Mr. Clerk. [LB921]

ASSISTANT CLERK: Mr. President, I have a priority motion. Senator Krist would move to reconsider the vote just taken on the motion to bracket. [LB921]

PRESIDENT FOLEY: Senator Krist, you're recognized to open on your reconsideration motion. [LB921]

SENATOR KRIST: Thank you, Senator Chambers, for all the lessons you have given. Folks, by that count, I would say that we have now a test case for where we stand within the process. We're going to go to 7:50, thereabouts, 8:00, and then three hours are up, and we'll have to show 17 or he'll have to show 33 or however that process works. But I do think that your support for the process and for the codes appear to be solid in place, at least one third of you, and I guess we will have to work hard to make sure that that number stays the way it is. The reconsideration will take us the rest of the time, I would hope. Everyone needs to punch on their lights and take us to that point so we can move on to the next item. I think that most importantly again, I will emphasize that this is about codes. This is about the adherence to the codes. This is about making sure that although we are extremely generous and we want to encourage people, as Senator McDonnell said earlier today, those when we need extra labor to come in from outside of the state to cross that state boundary and to help us with our construction projects across the state. We should, in Senator Schumacher's terminology, make sure that those people that are our local electricians get the jobs that they deserve to get when we have these projects come into the state. And with that, I would ask you all to continue to talk about this in terms of an extended debate for 20 more minutes. Thank you. [LB921]

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PRESIDENT FOLEY: Thank you, Senator Krist. Senator Brasch. [LB921]

SENATOR BRASCH: Thank you, Mr. President, and thank you, colleagues. With all the debate, I have had a little time to look back into my hearing notes. I spoke earlier. I do not support reconsidering and I do support the bill, LB921, and the General Affairs amendment. And the bill I introduced was back in February of 2013, and I was asked to introduce the bill on behalf of the...it was Northeast Community College and it was the association for electricians. And the reason I was asked to introduce this bill was basically because instructors at the community colleges suggested that apprentices truly needed to have some classroom time and instruction on electrical code--these are the apprentices--because...and I will quote here from my testimony and from some of the instructors. It says that the instructors would like to provide a requirement for continuing education courses. Many journeymen never move on to be...move on to the electrical contractor examination, which is generally taken by business owners or by those who are interested in obtaining electrical permits. For many electricians, becoming a journeyman is the final step in their vocational advancement. And as the Nebraska state association requires apprentices to work--and these are the apprentices that we are speaking about here--to work under supervision for four years and then allows them to take the test for a journeyman's license. And the reason I was asked to introduce this bill was because it says, typically apprentices who take the exam do so with little or no exposure to the National Electrical Code book, which is generally adopted standards for electricians. And this puts the apprentice in a position to fail the exam at least one or more times. If they have a knowledge of basic electricity and the National Electrical Code book, they're in a position to more readily pass an exam. And in here they talk about that records show that between the year July 1, 2007, and July 1, 2012, the Nebraska Electrical Division administered...they gave 2,300-plus exams, where only 1,121 passed the exam for an average of only 47.67 percent of the individuals...the apprentices would pass that exam. And so they stress...and more testimony, this is from one of the instructors saying that he...that they're taking a neutral stance and...but he does think that they definitely need apprentices taking continuing education. And he said that the traditional avenue, the one that he took, he said that you may do nothing but residential or commercial work, and you spend four years being told what to do, where to do it, how to do it, and those type of things, and not really have a good working command of the National Electrical Code. And if you look at the nontraditional, which is a structured training program which they offer at their college, they are taking two years of training. And it goes on to tell the numbers, and basically when I'm hearing testimony about how complex, how difficult, what risk that these apprentices are taking, it appears that currently the apprentices that we have according to our laws, you know, have very little electrical code background and the schools are encouraging legislators to do this. [LB921]

PRESIDENT FOLEY: Time, Senator. Time, Senator. [LB921]

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SENATOR BRASCH: This bill--thank you--was indefinitely postponed to require more training. [LB921]

PRESIDENT FOLEY: Thank you, Senator Brasch. Senator Kolterman. [LB921]

SENATOR KOLTERMAN: Good evening, colleagues. Full disclosure, my daughter works for Costco, Lincoln Premium Poultry. And I wasn't going to talk about this bill, but I felt it was important that I kind of give you some background what I understand about this bill...about this project. I learned about this project prior to Christmas in 2015 when some local people in my area started talking about the opportunity to grow poultry. We knew it was a reputable company that wanted to create a lot of jobs and work with local farmers. We didn't know who they were. Since then, I had the opportunity to attend the groundbreaking of the new facility. And I've heard the chief operating officer of the company speak on several occasions. They're a good company with good values who want to bring jobs to Nebraska. We talk about Nebraska being open for business. To a certain extent we are, but in this example we need to update our statutes as new construction methods and technology enable safe supervision of construction projects compared to decades ago. Nebraska law should reflect advances in construction techniques and also the reality of labor markets across the entire state, not only in the metro areas. This isn't about unions. If you were to talk to Costco or Lincoln Premium Poultry, this isn't about unions. This is really about labor force. The biggest problem that we face in rural Nebraska is labor force. I was at...I had the pleasure of going to Pioneer Hi-Bred Seeds yesterday, and we visited with an agronomy academy. Senator Linehan and Senator Brasch and I were there. And we learned about their number one problem right now is finding people that want to work. They want to come to...they want people to come and get good paying jobs with good benefits, but they can't find the labor force. I support this measure, as I believe it removes an unnecessary barrier to economic development in small communities and rural areas in our state. But I want to talk about three different families from my district. And this would have an impact on them, because it would cost them more to build these buildings. In the long run, they're the ones paying for the buildings themselves. Currently, there are three families in Seward and Polk Counties who are looking at putting these barns up. This brings people back to the farm who might not otherwise have the opportunity to come back. One of the guys is in his late 30s. He's found a great piece of land to put this on in Seward County and he's ready to build as soon as he gets the okay. Another two families are over in Polk County. And do you know how many jobs, new jobs get created in that part of my district each year? Not a whole lot, which is why everyone over in my district are excited about jobs like this. These are real jobs and they grow the tax base. And they're not maybe going to pay \$22, \$24 an hour, but I'm assuming they're going to be \$13, \$14 an hour jobs, which isn't bad in rural Nebraska. There's a young lady, whose mom is very active in farm groups who introduced me to her daughter. Her daughter's name is Hannah (phonetic). Hannah is still in college here at the University of Nebraska, but she told her folks she wanted to return to the farm after graduation, so they started looking at building a poultry facility. [LB921]

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PRESIDENT FOLEY: One minute. [LB921]

SENATOR KOLTERMAN: So Hannah will finish her degree and then she's going back to Dixon County to raise poultry. That's a Nebraska kid who wants a fantastic opportunity in a rural area, and one we can be proud of. Remember, this is not about union versus anybody. This is about having people available in rural Nebraska to do these jobs. With that, I would urge you to support LB921, and I oppose the bracket motion to reconsider. Thank you very much. [LB921]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Senator McCollister. [LB921]

SENATOR MCCOLLISTER: Thank you, Mr. President, and good evening, colleagues. I supported the bracket motion and oppose LB921. It's clear we are interjecting government in the free enterprise system. That just isn't right. It's contrary to what most of us know in this body. We can't allow government to take over the functions that free enterprise should do that. It's so ironic here in this body that we are interjecting government into something that we shouldn't be entering into. Here a bidder makes a bad bid and the government rides to the rescue--government rides to the rescue. I used to do a lot of bidding to state governments. In fact, we had six states: Nebraska, Iowa, South Dakota, Minnesota, Kansas, and also the state of Iowa. So in those states we would bid for lubricants. Now when I would make that bid I'd have to take a look at our base oil costs--and that's material that we'd buy in tank cars from the major oil companies, which is a component of lubricants--and additives systems. The biggest part of that bid were the base oils, because that was subject to market forces. Those prices would go up based on supply and demand, so I had to make a prediction what those prices would be. Sometimes I would win, sometimes I would lose. But you had to suck it up and provide the oil, because that was the basis of that bid. And what I see with this particular situation is a contractor made a bad bid. Well, in this case, he needs to suck it up and supply the product just like anybody...other bidder to state government or any other bidder to any major corporation, because they expect you to do the job. There was also a point made that we're not supporting development of industry in this state if we vote this...if we support this bill...if we fail to support this bill. And I don't believe that either. I believe there's a whole lot of other factors that probably have more bearing than the supply of the labor contract. I'd say the cost of land, the cost of living in Nebraska, access to grains, availability of labor, favorable work ethics. I think those factors weigh in much more than any issue with an electrical contractor that either bid too high or bid too low. I believe in the free enterprise system. Government should be in the position of picking winners and losers in this particular case. Please vote against LB921. Thank you. [LB921]

PRESIDENT FOLEY: Thank you, Senator McCollister. Senator Quick. [LB921]

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SENATOR QUICK: Thank you, Mr. President. You know, one thing I haven't talked about tonight is the fact that in Grand Island, Hendrix Hatchery (sic--Hendrix Genetics) came into our area and along with that, they were building chicken barns for the laying hens to supply the eggs for the plant. Now I'm just going to say they did it the right way, because they've never asked for an exemption to build those chicken barns and they needed to have the eggs so they could start hatching out the chickens so, you know, and bringing the chicks and then they supply the barns with more chickens and...and so I think that's another issue we have to look at. So why did this happen? Why were we able to build those barns around Grand Island for the hatchery, but we're not able to build the barns under this...for the Costco plant? And I want to make it clear. I do support Costco and what...they're bringing jobs to Nebraska and I support the barns being built in Nebraska. That is very important. I mean, it's economic development, it's creating a work force...bringing a work force here and supplying wages for families. Now one thing that did come up in the hearing and I don't know if anybody else has addressed this, but I know the wages that they talked about were \$10 to \$12 an hour jobs so at that time...and so that's a little different than the \$15 an hour job that's been discussed. Now another thing that happens with apprentices in the work force is that as you complete each book and your number of hours, you complete each book in so many hours, then you move up to the next pay scale. So you're Apprentice I the first so many hours until you complete your book and then you become an Apprentice II, you get a wage increase. Same way, Apprentice III, there's another wage increase. And then Apprentice IV, then you're at the top of the pay scale. And then next you become a journeyman and then you're paid that rate as a journeyman electrician. It's more or less the same thing for linemen, they work under the same process. So I don't think anybody has really discussed that, the...what, you know, what kind of apprentices will be on the job. Are they all Apprentice Is? Are you going to have apprentice...different apprenticeship positions that are going to be paying different wages on that job site? And nobody really knows that until the job starts and we find out who's actually working on the facilities. I think one other thing that happens, too, is because within this amendment--and I know nobody's really discussed it--but you have the one-to-three for working on energized equipment and also for making the final hookups. And then you have the one-to-five, one journeyman to five apprentices that pull the wire and do the conduit. And then you have an unlimited number of laborers that will dig the trench and carry the wire in and they will be your, you know, your common laborers. And we don't know how many of them they would have. But sometimes what happens on the job site, whether it's good or bad, is that they can actually hide workers and say when...if an inspector comes on the job site and says, okay, I want to know how many journeymen you have, how many apprentices you have. And so then this is just going to cause more headaches and more problem for the inspector to figure out, how am I going to figure out who is with who and how many guys are actually on the job? And they can say these guys over here are just digging ditches and then bring them back later and say, well, they're actually putting in...pulling wire at some other time but...you know, and that's where we run into some of the problems when you're... [LB921]

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PRESIDENT FOLEY: One minute. [LB921]

SENATOR QUICK: ...pulling wire and putting out conduit. If they aren't receiving the proper instruction, like I've said before, you can stretch the wire, you can strip the wire, and that's what causes some of these workplace accidents. There's going to be electrical boxes to put up, there's going to be...there's all kinds of equipment. There's going to be large fans. There's going to be feeders, whether they're conveyors or augers, that bring the feed into the buildings. And these are going to be equipment that requires a larger voltage so there could probably be...you're going to be putting in 220 (volts), 3 phase electrical lines and boxes and those things and so the breaker panel is also another issue. These are bigger breaker panels and that's where you end up getting some of the arc flash and some of the workplace injuries that these...that the pictures I showed from job sites that happened to workers in the work force. And I think that's all I have to say at this time. Thank you, Mr. President. [LB921]

PRESIDENT FOLEY: Thank you, Senator Quick. Speaker Scheer. [LB921]

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. We've reached the time threshold on this bill, so we'll move past it to the next item, please. [LB921]

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

ASSISTANT CLERK: Thank you, Mr. President. Amendments to be printed to LB921 from Senator Groene and from Senator Larson. (Legislative Journal pages 1047-1048.) [LB921]

With respect to LB948, it was introduced by Senator Murante at the request of the Governor. (Read title.) The bill was referred to the Government, Military and Veterans Affairs Committee. That committee placed the bill on General File with committee amendments. (AM1931, Legislative Journal page 748.) [LB948]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Murante, you're recognized to open on LB948. [LB948]

SENATOR MURANTE: Thank you, Mr. President. Members, good evening. Let me start by thanking Senator Thibodeau for prioritizing LB948. This is an important piece of legislation that is the product of an executive order issued by the Governor. Last spring the Mercatus Center at George Mason University conducted a thorough review of all rules and regulations in the state of Nebraska. Mercatus' analysis made the following findings. The Nebraska Administrative Code contains more than 7 million words and it would take one individual working full time more than

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ten weeks to read the entire code. There are more than 100,000 regulatory restrictions in Nebraska's code. After reviewing Mercatus' analysis, Governor Ricketts issued Executive Order 17-04 and announced an advisory task force to oversee the efforts. I served on this task force with Department of Banking and Finance Director Mark Quandahl, Tax Commissioner Tony Fulton, and Department of Health and Human Services Chief Operating Officer Bo Botelho. The executive order suspended the rule-making process and required agencies to review existing and pending agency regulations. Agencies submitted their preliminary findings to the Governor in November, which is what brings us to LB948. First, LB948 changes requirements that agencies promulgate rules in certain instances. There are many regulations that exactly mirror state statute and were promulgated strictly because the statute required a rule. This bill will allow agencies to eliminate those redundant and unnecessary regulations. Second, LB948 changes the process for promulgating rules of procedure. Currently, the Nebraska Attorney General promulgates models of rules of procedure and then each agency is required to adopt the model rules through the promulgation process in the Administrative Procedure Act. The current process has resulted in the same or similar rules being adopted by each state agency but also allows for slight differences across state government. Updating all procedures to a standard rules procedure promulgated by the Attorney General will allow for many chapters of regulations to be outright repealed within state agency and will increase consistency in procedures across agencies. This consistency and elimination of redundant regulation will make it easier for citizens to find and understand the procedures they must use to engage in the regulatory process. And, Mr. President, may I proceed to the committee amendment? [LB948]

PRESIDENT FOLEY: Please do. [LB948]

SENATOR MURANTE: Thank you, Mr. President. Members, again AM1931 does not make substantive...does not make changes to the introduced copy of the bill but does add additional regulations permissive. The amendment changes regulations for the following subject areas to permissive language: elections held by mail, the Water Resources Trust Fund, and the Motor Vehicle Operator's License Act. These...the elections held by mail issue was brought to us after bill introduction by the Nebraska Secretary of State's Office. I want to thank the Government, Military and Veterans Affairs Committee for advancing LB948 out unanimously. I will tell you that this bill really has one fundamental goal, and to reiterate the point, that there are numerous rules and regulations that are adopted and promulgated by the executive branch of government which exactly mirror state statutes. That's redundant and it's unnecessary. It serves no public purpose to require state agencies to adopt and promulgate rules after the Legislature has already prescribed exactly in the law how those proceedings need to proceed. So I would encourage your support of LB948 and your adoption of AM1931. Thank you, Mr. President. [LB948]

PRESIDENT FOLEY: Thank you, Senator Murante. Mr. Clerk. [LB948]

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ASSISTANT CLERK: Mr. President, Senator Burke Harr would move to amend the standing committee amendments with AM2473. (Legislative Journal page 1048.) [LB948]

PRESIDENT FOLEY: Senator Harr, you're recognized to open on your amendment. [LB948]

SENATOR HARR: Thank you, Mr. President, members of the body. So we're going to be here for a little while I think. I was listening to Senator Murante's introduction and the reason for this bill and what we're doing here, and I still don't know what this bill does. I think we're going to have some fun maybe going section by section with Senator Murante. Maybe after we discuss this amendment, we can divide the question and go through this. But we talked about this earlier this session. I don't know if anyone remembers this--I said it was a precursor for this bill then--about the difference between "may" and "shall." But this bill is also about separation of powers and who do we think should have the power. This, Senator Murante brought his bill as a result of Executive Order 17-04 in which the Governor stated in his executive order, "WHEREAS, the Nebraska Administrative Code has more than 7,500,000 words and more than 100,000 restrictive words." Restrictive words, I don't know what a restrictive word is. "No" would probably be one. "Shall not" would probably be another one. "May only when" would probably be another one. "Shall," meaning will, you will do this, I'm not sure that's a restrictive word. I think it's the opposite. You're being told to do something. And then, based on that review, remember, no one else could work on anything but reviewing this from the date it was issued until December 31, and it was signed July 6, about the time we fired Colonel Rice, and he had a lot going on then. And then after reviewing 7,500,000 words, how many do we change? Less than a hundred, less than a hundred. You know what that tells me? We do a pretty good job with our rules and regs, less than a hundred. And really, most of them are changing from "may"...or "shall" to "may," which is 36 sections, so 36 words out of 7,500,000. I had a bill last year. I brought LB36. LB36 was somewhat what Senator Ebke's bill became in which I said every department shall review its occupational licensures every five years, and then there will be a hearing on it and they'll review it. They'll have a hearing. And as long as everything is kosher, they're renewed, done. Well, I introduced the bill. I had HHS go first, and in their fiscal note...because I do read fiscal notes. Now, remind you, the 7,500,000 words were 100,000 pages. The fiscal note on LB36, reviewing rules and regs related to occupational licensure, according to the fiscal note for HHS alone, approximately 5,000 pages of occupational related rules and regulations. For that, to review 5,000 pages, they needed two full-time employees to review it every five years and they put a fiscal note on it of \$270,000. And yet somehow we found a way to do it for, and I'm putting quotes in it, "free" over the summer. I never saw any appropriation to study the 100,000. But 5,000, right, do the math on it, that's pretty darn expensive. And so we reviewed them. Somehow we were able to do it for free and we reviewed them and we came back and we said there are 36 places where we got to change it from "shall" to "may." And then we had the amendment which then deals with election law, always a hairy subject. And that's what this amendment deals with. And I have asked four or five people, what's this do, I don't understand. And so I was very

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excited, because unfortunately we don't have the testimony from the hearing, and so I was very excited to hear from Senator Murante what the bill does. And we can all read the words but what's the real-world effect of it? Nothing. Nothing, folks. They're trying to pull the wool over your eyes. Let me tell you what it does. When you go from us in the Legislature saying, executive branch, you shall make rules and regulations around the bills we pass, they have to. When we say, executive branch, hey, when you get a chance but nothing too soon, don't want to inconvenience you, when you get a chance maybe may, may you, please, no rush again, take your time, may you please do some rules and regs around this? Now if they like that bill they're going to say we got the time, right? It goes back to my LB36. They didn't want to do it--\$200,000; they wanted to do it--free. That tells you where the...how the administration works. When they want to do something, yeah, we can do it, we have time, don't worry, we'll take care of it. When they don't want to, you know what they're going to do? I can tell you what they're going to do. Nothing. And then what happens to our law that we passed? Nothing. We might as well not pass that law. And, by the way, all these rules and regs that are around these laws that we have that we now say "may," if we pass this bill I'll be gone but I would love to come back and see how many of them, the rules and regs, have been changed and/or eliminated, because now it's not "shall" make rules and regs but "may." So maybe we'll just eliminate them, right? There's nothing to force them to do it. And this has been a constant frustration with the Legislature. We passed a law a couple years ago that said when we pass a law you shall make rules and regs within a year, because they weren't getting made. Senator Howard will tell you about some rules and regs that just sit there idly that we can't get made around healthcare. We have no enforcement for the "shall." We have a law but there's really no enforcement, and they're ignoring us. What in the world do you think will happen when we say "may"? I can tell you what's going to happen. We're going to lose all our power and that great sucking sound that you hear is power escaping this room and going to the corner office because now he or she has complete control over what bills are enforced, because if there aren't rules and regs, a lot of our more complex bills will just disappear. And you got to ask yourself, is that what we want to do? Is that what we came down here for? Is that why we push all that blood, sweat, and tear, fight each other, fight the lobby to get something passed only to have the Governor say, yeah, good luck with that, buddy; I'm not making any rules and regs on it. Thanks for playing. Hey, you know what? Come back next year. Maybe you can change that. "Shall" is not restrictive language. It's restrictive language to him or her because they have to do what we want, and we take away their discretion. But it is not restrictive to us and it's not restrictive to the citizens of Nebraska. [LB948 LB36]

PRESIDENT FOLEY: One minute. [LB948]

SENATOR HARR: Thank you. [LB948]

PRESIDENT FOLEY: You have one minute, Senator. [LB948]

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SENATOR HARR: Oh. I thought you said time. I apologize. So this came about as a result of Governor review to cut unnecessary red tape. Again, folks, this does not cut unnecessary red tape: 7,000,500 (sic--7,500,000) words and we change 36. Think about why we only change 36 and what those 36 do. Read the bill. I've talked to people. I've called to the interested groups. I say, what does this bill do? And they say, on its face nothing; what it could do, detrimental. Thank you. [LB948]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Krist. [LB948]

SENATOR KRIST: Thank you, Mr. President. Good evening, colleagues, and good evening, Nebraska. I'm going to start out with a couple specific questions and then I'll go to my opinion, my soapbox. I'll follow Senator Harr's example. Wonder if Senator Murante would yield to a question. [LB948]

PRESIDENT FOLEY: Senator Murante, would you yield, please? [LB948]

SENATOR MURANTE: Yes. [LB948]

SENATOR KRIST: Page 2, starting with line number 8, this has to do...the section up at the top, Section 1, "Section 3-158." Do you know what that applies to, Senator? [LB948]

SENATOR MURANTE: Are we talking about the committee amendment right now? [LB948]

SENATOR KRIST: No, we're talking about the basic bill. [LB948]

SENATOR MURANTE: Okay. [LB948]

SENATOR KRIST: Page 2, up at the top, it says Section 1, "Section 3-158, Revised Statutes Supplement." [LB948]

SENATOR MURANTE: Okay. [LB948]

SENATOR KRIST: I'll just cut to the chase. [LB948]

SENATOR MURANTE: Okay. [LB948]

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SENATOR KRIST: Section 3-158 applies to aviation. [LB948]

SENATOR MURANTE: Yes. [LB948]

SENATOR KRIST: Department of Aeronautics,... [LB948]

SENATOR MURANTE: Uh-huh. [LB948]

SENATOR KRIST: ...now the Division of Aeronautics underneath the Department of Transportation. I think I'm correct in that vernacular. [LB948]

SENATOR MURANTE: That's correct. [LB948]

SENATOR KRIST: Line 8, starting with, "The notice shall contain the name of the person giving the notice," and then you delete, "and shall be in the form prescribed by rule or regulation which the division shall adopt and promulgate." So they have adopted and promulgated a rule in place that we aviators and those of us that operate in the charter and lease and rental business are prescribed, and that is very similar to what the FAA requires us to do and is basically for us a disclaimer in terms of this is the insurance that's provided, here's the coverages that are provided, and they're already in place with the department. So why would we eliminate: and shall be in the form prescribed by rule or regulation which the division shall promulgate? [LB948]

SENATOR MURANTE: Sure. When the Department of Transportation brought this issue, their reasoning was very simple. Because the rule and regulation is already spelled out in state law, they don't need to adopt an additional rule and regulation. [LB948]

SENATOR KRIST: Where is it prescribed in state law? [LB948]

SENATOR MURANTE: It is Section...I have them all in front of me, Senator Krist. [LB948]

SENATOR KRIST: Section 3-158? [LB948]

SENATOR MURANTE: I will...I'll tell you what, Senator Krist, I will get the exact section and...but I will tell you the answer to every single question of these is going to be the exact same. [LB948]

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SENATOR KRIST: Okay. I think we're doing a disservice in this particular area to the people who operate in this particular business because it is and it should be enforced by the department, sorry, now by the Division of Aeronautics. Anybody who operates in the state should be operating under the rules and regs that they have prescribed. So let's move on to question number two, which is on page 6. As I understand, page 6, line 6 through line 10, and this is in Section 44-213.02, we are relieving the Department of Insurance from--and Senator Harr's point and I'm going to make this really a solid point for any of you who are listening at home and for those who are listening in the Chamber, if there are any--this relieves them of the responsibility to work in a manner provided by the Administrative Procedure Act. Think about that for a second. We have a process called the Administrative Procedure Act and we're telling the Department of Insurance or any department, hey, we were just kidding, you don't really have to work with that, you don't have to do anything with that. That's...and I won't pose any more questions, Senator Murante. I just...I could go on with these and actually highlight the ones that I think are problematic. I think anytime... [LB948]

PRESIDENT FOLEY: One minute. [LB948]

SENATOR KRIST: ...that you would...I'm sorry? One minute? [LB948]

PRESIDENT FOLEY: One minute. [LB948]

SENATOR KRIST: Anytime that you would disregard the Administrative Procedure Act I believe, again, in Senator Harr's vernacular, you're giving away power. But I'll give you a specific example. In 2015 I introduced a bill, we passed a bill that said that before prisoners who are Medicaid eligible are released from the penitentiary, they will have their Medicaid services certificate restored, 2015. It still hasn't been done and we told them you shall. And now we're going to say you may. I agree with Senator Harr. This is taking the teeth out of the oversight capability of the Legislature and with most of these I take exception in a personal or professional manner. Thank you. [LB948]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Larson. [LB948]

SENATOR LARSON: Thank you, Mr. President. On a much unrelated note, I would like to say happy birthday to a good family friend, Emma Dukesherer. She's turning ten today, first day of spring. I think that's today or tomorrow. Tomorrow is the first day of spring. And I do...she's an awesome girl that loves sports, volleyball, and turning ten today. So happy birthday, Emma. Thank you, Mr. President. [LB948]

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PRESIDENT FOLEY: Thank you, Senator Larson. Senator Thibodeau. [LB948]

SENATOR THIBODEAU: Good evening, colleagues. And thank you, Mr. President. I do stand in support today of the Government Committee's amendment as well as LB948. I did make this my priority bill. I believe this bill makes government more efficient and that's what we all want to do. We want to make government more efficient. I know there's been a lot of concerns brought up with regards to maybe the Legislature losing their power. However, these "shall" to "may" on many of these regulations are mirroring state regulation already. And if I understand it correctly, it's the Legislature that makes state regulation, so those state regulations are already in place. There is no reason to have to put further work on these bodies to go ahead and put forward rules that are already in place. With regards to the election amendment, as much as people may want to question it, it is actually putting forth language to make elections by mail more permissive. So with that, I am in support of this bill. It is my priority bill. I would like to yield the rest of my time to Senator Murante, if he is available. Thank you, Mr. President. [LB948]

PRESIDENT FOLEY: Thank you, Senator Thibodeau. Senator Murante, if you'd like it, 3:20. [LB948]

SENATOR MURANTE: Thank you, Mr. President. Members, I probably will not be spending a great deal of time. I think I have articulated what the point does. I do have to say that I did enjoy Senator Harr's opening on his amendment and his very kind words in the Omaha World-Herald where he at least said I function the committee very well, and I appreciate that. There's been some opposing opinion on that. But I will say, in following your remarks, Senator Harr, this is what I gleaned from what you think this bill does: you don't know what it does; the bill does nothing; it doesn't do enough; it pulls the wool over people's eyes; and it gives too much power to the executive branch, all at the same time. I don't think that's humanly possible but I'm glad that I was able to do nothing and limit the power of the legislative branch of government all in one fell swoop. I would submit to you that that's silliness. We're in silly season in the Nebraska State Legislature. The executive branch does not need to adopt and promulgate rules to effectuate laws. If that were the case, every law in the statute book would require some sort of rule and regulation in order to become effectuated. That's nonsense. (Laugh) I can't believe I actually had to respond to that. But, friends, this is an example of the executive branch identifying, in the rules and regs that they have been forced to adopt because state law says that they must adopt them, where they come back and say, you know what, we adopted rules but the rules that we adopted are verbatim what you put into the law. This doesn't transfer power, any authority away from the Legislature because the executive branch does not have the ability to alter laws without this Legislature taking action through the course of legislative bills. What the executive branch is saying is you, the legislative branch, have spoken, you passed your laws and you were explicit in how you wanted we, the executive branch, to conduct our business. You then told us that we

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needed to adopt and promulgate rules and regulations, which are unnecessary because you told us what to do and we'll do that. That's what this bill says,... [LB948]

PRESIDENT FOLEY: One minute. [LB948]

SENATOR MURANTE: ...that they have to go through this process of adopting and promulgating rules, which is unnecessary because the Legislature, through its bills and in its statutes, were explicit enough that rules and regulations are unnecessary. So this does not transfer any authority away from the Legislature. It does not transfer any authority to the executive branch. This simply allows for unnecessary and redundant regulations, which simply copy and paste state law, from needing to exist. And it's a pretty common-sense proposal and I would encourage your support of it. Thank you, Mr. President. [LB948]

PRESIDENT FOLEY: Thank you, Senator Murante. Senator Morfeld. [LB948]

SENATOR MORFELD: Thank you, Mr. President. Colleagues, I rise with some concerns, and I already talked to Senator Murante a little bit about this, but I'd like him just to yield to some questions just to get on to the record, and then I'll probably make my decision on whether or not I'd vote in favor of this on Select File after doing a little more digging in. Would Senator Murante yield for some questions? [LB948]

PRESIDENT FOLEY: Senator Murante, would you yield, please? [LB948]

SENATOR MURANTE: Of course. [LB948]

SENATOR MORFELD: Senator Murante, I'm specifically looking at page 2 of your amendment, AM1931, here. And under page 2 it looks like you take Sections 32-952 and (sic--to) 32-959 and move them down under 32-203, the powers of the Secretary of State. So it's essentially making it so that they don't have to promulgate rules and regulations under the statutes that deal with special elections and you just simply put it under the powers of the Secretary of State. Is that correct? [LB948]

SENATOR MURANTE: Yes. [LB948]

SENATOR MORFELD: Okay. Are there any rules and regulations at all that have been promulgated under these sections? [LB948]

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SENATOR MURANTE: Yes. [LB948]

SENATOR MORFELD: There are. [LB948]

SENATOR MURANTE: Yes. [LB948]

SENATOR MORFELD: Okay. So what are those rules and regulations? Do you...? [LB948]

SENATOR MURANTE: They are copied verbatim from the...this was brought to us by the Secretary of State... [LB948]

SENATOR MORFELD: Okay. [LB948]

SENATOR MURANTE: ...and his deputy, Deputy Bena,... [LB948]

SENATOR MORFELD: Okay. [LB948]

SENATOR MURANTE: ...who said that they have to go through the process of adopting and promulgating rules, that the laws are explicit for how special elections need to be conducted and what they do is copy and paste the state law into their rules and regulations. They find it to be an unnecessary waste of time, to the extent that there is money involved, it's a waste of money, and it does little more than create a copy and paste, a redundancy, of what's in state law. [LB948]

SENATOR MORFELD: Okay. Now I just wanted to get that on the record and, obviously, if that's what the Deputy Secretary of State stated and that's what you're saying on the record, I'll take that at face value and as the truth. I do want to look into that a little bit and I do want to read some of these statutes more in-depth. I think that there is a potential down the road that, with how complex elections are, that we may want to have the ability to adopt rules and regulations. And, Senator Murante, if you'd yield to another question. And I, quite frankly, I'm making an assumption here, but since you're the Chair of the Government Committee I'm assuming that the Secretary of State has fairly broad authority to create rules and regulations even where the statute is silent, correct? [LB948]

SENATOR MURANTE: And to be...he does. And to be clear, this does not prohibit the Secretary of State from enacting rules and regulations. It simply makes it permissive... [LB948]

SENATOR MORFELD: Okay. [LB948]

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SENATOR MURANTE: ...if those rules and regulations become necessary down the road, either through enacting of new legislation or for whatever reason the Secretary of State deems appropriate. [LB948]

SENATOR MORFELD: Okay. Well, thank you for putting that on the record, Senator Murante. And for the record, I also think, for better or for worse, you run a pretty efficient committee,... [LB948]

SENATOR MURANTE: (Laugh) [LB948]

SENATOR MORFELD: ...so I'll congratulate you on that. In any case, I'll probably be looking into this a little bit more. At this point I'm probably not voting on the legislation, and on Select File I'll make my decision on whether or not I support it after doing a bit more research. Thank you, Mr. President. [LB948]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Chambers. [LB948]

SENATOR CHAMBERS: Mr. President, members of the Legislature, this is one of the most blatantly partisanship, political maneuvers and stunts that I have seen. Senator Murante should have prioritized this bill, if it's that important. But to show the political nature, a person who was appointed by the Governor is the one who prioritized this bill with no understanding of the legislative process. Senator Murante took advantage of somebody or the Governor gave an order. And there's no need in them pretending that they are so efficient. I have a resolution that's been in Senator Murante's committee since last session. Earlier this session my office was contacted about a date perhaps being set. It had to do with the Twenty-Fifth Amendment to the U.S. Constitution which can determine by the appropriate officials in Washington whether or not the President at that time is capable of discharging the duties of his office. There has been no hearing set to this date. I asked Senator Murante just a few minutes ago is he going to set a hearing. He said around April 3. Now it's been there all of this time. I'm going to offer another one of those resolutions and I'm going to put in the resolution that I want it referred to a different committee. And if that's not done, I'm going to make a motion to pull that from his committee. I know the Legislature won't adopt it. I'm going to force a discussion of that issue. Senator Murante has got one of the most unfair, unobjective committees in this Legislature. For Senator Harr to say he's efficient is like saying an executioner who cuts the head off with one stroke of the ax is efficient. These are the kind of charades that take away any credibility that a new senator could have. I could ask her questions which she couldn't answer because she does not know. She has not been here long enough. Why didn't Senator Murante himself do it? I have mentioned political things he's done that I consider patently racist, like voter ID. When he's running for the Treasurer's Office, you know what he said? One of the most...that he has established his conservative

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credentials. Voter ID he brags about qualifies him to be the Treasurer. No, it certifies him as a racist. He would be a White Supremacist if he were white. He needs to be called out. And then to abolish the Learning Community which was helpful to minority children, poor white children, English learner. And he's leaving the Chamber now, he ought to, with his tail between his legs. That's what you've got in this Legislature and you all tolerate it and you won't say anything about it. But because so much he does hurts the people that I am representing, not just black people, I'm going to call him out. I don't owe him anything. Let him go back to his pizza parlor. He says flipping pizzas, sticking them in an oven taught him how to review contracts. He's made a threat against First National Bank because they cut ties with the NRA, and he said they should not make political decisions like that. And he's making a political decision for the biggest bank in this state. I asked him the other day what is the second largest bank. He did not know. So if First National is not good enough to handle the business of the state, what's the next size bank that can do it? He doesn't know because the "Repelicans" have a tool in him, a stooge,... [LB948]

PRESIDENT FOLEY: One minute. [LB948]

SENATOR CHAMBERS: ...and that's why they support him, a pizza person, a pizza person. He said it's a family business. The son of a pizza maker is more competent to be the Treasurer than somebody whose profession deals with finances, managing finances. And why did the "Repelican" Party support him? He's a stooge and he's always been one. And when you read his words, he's proud of the things that would hurt other people. I'd like to ask Senator Murante a question, if he'll answer, if he can stop grinning like a Cheshire cat long enough. [LB948]

PRESIDENT FOLEY: Senator Murante, would you yield, please? [LB948]

SENATOR CHAMBERS: Senator Murante,... [LB948]

SENATOR MURANTE: Yes. [LB948]

SENATOR CHAMBERS: ...are you aware of two suburban school districts which recently had an election or a vote on whether or not to adopt a bond issue? [LB948]

SENATOR MURANTE: Yes. [LB948]

SENATOR CHAMBERS: How was that election conducted? [LB948]

SENATOR MURANTE: By mail. [LB948]

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SENATOR CHAMBERS: And you want voter ID? [LB948]

SENATOR MURANTE: Yes. [LB948]

PRESIDENT FOLEY: Time, Senators. Thank you, Senator Chambers, Senator Murante. Senator Howard. [LB948]

SENATOR HOWARD: Thank you, Mr. President. I rise with some questions about LB948, but before I go into those I want to talk a little bit about the significance of regulations on the healthcare side, just because I know Senator Harr brought that up. And I've worked here for about six years and one of the challenges that I've run into in regards to the agency that I see the most, the Department of Health and Human Services, is...lax isn't the right word, maybe a flexibility when they think about the statutes that we pass and their time line in terms of passing regulations to go along with them. So, for example, on the Health and Human Services side we would, say, pass a scope of practice or create a registry. And then we would say, you pass the rules and regulations that say when you have to register, how long that lasts for, how much that registration might cost. So those would be the regs that would go along with that type of registry. But when I first got here, my first year was 2013, and there was a set of regulations that had not been promulgated and have still not been promulgated to this day on the Health and Human Services side. And so that year I passed a bill that said, if there are rules and regulations that haven't been promulgated by a specific agency, they actually have to tell the committee of jurisdiction what rules and regs haven't been promulgated, what their status is. And so I actually have a couple of copies of the report that we got in February and we had a hearing in the Health and Human Services Committee about them, but the oldest reg that hasn't been passed is from 2007 and those are our nurse psychologist regulations. There have been a lot of holdups on those specifically, but it's been almost ten years that we haven't had any regulations that have been updated for our psychologists. The other piece of this is that as you work here for a long time you will find out that you will pass great things but then you also have to check in with the agency and say, how's my bill going? Did you do the thing that you said that you were going to do? The bill that I passed, did you do it? And so a couple of years ago I passed a bill around multisystemic therapy for kids. It's a family-focused therapy. It's really great at reducing costs. The regulations have not been promulgated for them. That was in 2015 that I passed that bill. And the regs are there so that we know the parameters of that service, who can provide that service, how they can bill for it. And that susses out in the report that we asked from them. So on the healthcare side, the promulgation of rules and regulations is very challenging. I don't think that we are the people who build the regulations. We create the statute and then we ask the agency to sort of build the framework for practical use, and that's what we need the regulations for. With that being said, I do have some specific language questions for Senator Murante, if he would yield. [LB948]

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PRESIDENT FOLEY: Senator Murante, would you yield, please? [LB948]

SENATOR MURANTE: I would. [LB948]

SENATOR HOWARD: Thank you. So I wanted to ask you, I have two very specific questions. One is at the bottom of page 5 on the green copy, and that's the Domestic Abuse Act. And I wanted to get more of an understanding of the reasoning behind changing those regulations from "may" to "shall" (sic--"shall" to "may") specifically to domestic abuse. [LB948]

SENATOR MURANTE: Because when...if you'll pardon me for a moment I need to pull out one of my notes. I will tell you the answer to the question is, when the agency responsible for reporting back on the executive order came back us, they came back to us and said that the language in statute was so specific that an additional rule and regulation simply resulted in a copy and paste from state statute and didn't add anything in addition and, therefore, was redundant and unnecessary. [LB948]

SENATOR HOWARD: Can you just give me the reference so I can look it up? [LB948]

SENATOR MURANTE: Absolutely. Senator,... [LB948]

PRESIDENT FOLEY: One minute. [LB948]

SENATOR MURANTE: ...I'll tell you what, I am going to, Senator, and I will tell you also with respect to your discussion, several of the provisions within this bill came to us by virtue of the bill that you were referencing where the agencies had to do an analysis of what was before them. They came to us and said, we haven't adopted or promulgated any rules because they're unnecessary and, therefore, we ought to proceed from a "may" to a "shall" (sic--"shall" to a "may"). [LB948]

SENATOR HOWARD: Right. I apologize. This is still my time. [LB948]

SENATOR MURANTE: Understood. [LB948]

SENATOR HOWARD: But the other thing that I want to emphasize is that when we ask an agency to do something, when we pass a statute, when we pass, when we tell them to do regulations, my expectation is that they will do it, that they will not sort of disregard the statutes that we pass, because that's a big part of the balance between our branches. We remember there

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was a person who came to us and said they don't have the luxury of statutory compliance, and that was in Corrections. And we have several problems there and several statutes to help and guide them. And so, Senator Murante,... [LB948]

PRESIDENT FOLEY: Time, Senator. [LB948]

SENATOR HOWARD: ...I'll put on my light for another question. [LB948]

PRESIDENT FOLEY: Thank you, Senator Howard and Senator Murante. Mr. Clerk. [LB948]

ASSISTANT CLERK: Mr. President, I have a priority motion. Senator Chambers would move to bracket the bill until April 18. [LB948]

PRESIDENT FOLEY: Senator Chambers, you're recognized to open on your bracket motion. [LB948]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I'd like to ask Senator Murante a question, if he's still here. [LB948]

PRESIDENT FOLEY: Senator Murante, would you yield to questions, please? [LB948]

SENATOR CHAMBERS: While he's coming to his mike, it's not up to an agency to say, we determine that it's redundant so we're not going to do it. We need to start putting criminal penalties in these statutes. That's the executive department telling the Legislature to go you know where. I'd like to ask Senator Murante a question. [LB948]

PRESIDENT FOLEY: Senator Murante, would you yield, please? [LB948]

SENATOR MURANTE: Sure. [LB948]

SENATOR CHAMBERS: Senator Murante, why do you want voter ID bills? Why do you bring them? [LB948]

SENATOR MURANTE: There are many reasons, Senator Chambers. [LB948]

SENATOR CHAMBERS: Give me the main one, if there's a main one driving it. [LB948]

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SENATOR MURANTE: I would say it's a basic protection that is used in many areas of our day-to-day life. [LB948]

SENATOR CHAMBERS: All right. Let me ask the question a different way. Is the ultimate aim to make sure that the person who casts the vote is the one who's registered to do so, and that the one who shows up to vote is the one who, in fact, had registered to vote? Is that the ultimate aim of it? [LB948]

SENATOR MURANTE: It's specifically provided for polling place voting and it's attempted to help increase the security (inaudible). [LB948]

SENATOR CHAMBERS: Let me ask you this. How do you prevent fraud in mail-in votes when all the votes, all the ballots are cast by mail? How do you know that any person's signature on that ballot was put there by the person it purports to be? You don't know, do you? [LB948]

SENATOR MURANTE: No, I do know, Senator Chambers. Our local election administrators do a very thorough job of verifying the signatures between what is on the envelope on returned envelopes, whether it's early voting by mail or by mail elections, with the signature on the voter file. And there are instances every single election cycle where signatures don't match and the ballot is returned with the notification that the signature didn't match. [LB948]

SENATOR CHAMBERS: Well, they could do the same thing if a person goes to a polling place, couldn't they? [LB948]

SENATOR MURANTE: No, they couldn't. [LB948]

SENATOR CHAMBERS: Why not? [LB948]

SENATOR MURANTE: Because once you go to a polling place, you sign the paper register, you get your ballot, you go to the polls, you put your ballot in the ballot box. Even if after the fact the audit finds that somebody came in and forged a signature, the ballot has been cast. There is no way to remove the ballot from the count. So the damage has been done and you cannot "unring" the bell. [LB948]

SENATOR CHAMBERS: So then they know who the person is who voted a certain way. The vote, the ballot... [LB948]

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SENATOR MURANTE: I'm sorry? [LB948]

SENATOR CHAMBERS: ...the vote then is not secret, is it? [LB948]

SENATOR MURANTE: The vote is secret. That's why the ballot... [LB948]

SENATOR CHAMBERS: Mail in. [LB948]

SENATOR MURANTE: ...cannot be taken back out. [LB948]

SENATOR CHAMBERS: Thank you. Members of the Legislature, he's a flunky for white people. White people are the ones who can vote by mail in. Then let's let all of the elections be by mail in, all of them. He can talk that mess to you all because you all are just like him. This is like a Ku Klux Klan klavern. You all know what I'm talking about. You know that it's true. He doesn't worry about two white suburban school districts conducting the entire election by mail-in votes, ballots. That's insane. He's boasting, when he's running for Treasurer, about having offered bills to require voter ID and to try to destroy the Learning Community, which would help Italians if they're from Little Italy and are poor. But he's white now. We have black people like that. We call them passing and we call them sellouts, Uncle Toms and Aunt Jemimas. Latinos call them Tio Taco. That's what I'm dealing with on the floor of this Legislature. I listen to this trash. Then these white people in these agencies can tell you white people in this Legislature, you told us to write these rules but we don't think it's necessary so we're not going to do it. Senator Riepe is now the Chairperson of HHS, the Health and Human Services Committee. He doesn't do anything. The Catholic Conference runs Health and Human Services and you all tolerate it. And I'm supposed to go along with it because you all do? It's as clear as the nose on your face. If I'm lucky, Senator Riepe won't be coming back here. I'm watching the way you all do, the master race. When it's the most essential things, then you fail the test. The white suburban districts conduct their election strictly by write-in ballots. You think they checked every one of those signatures in the short time between when they got them and announced the results? Do they have handwriting experts? Is that what they have? He's full of it. And let some of these white people on the radio in Lincoln and Omaha come after me like they went after Senator Blood. See, they will attack a white woman because they are cowards like some of the people on this floor. Senator Murante tricked a white woman, appointed by the Governor, to bring this nonsensical bill. We're going to stay on it for the full amount of time. And a committee amendment is amenable to division of the question, and that's not a ballot...that's not a voting issue. The request is made. And if it can be divided into individual items, each one of which can stand alone, the question is divided. So when they list out all of these different agencies, these different rules, each one can stand alone. And that will easily take us the full amount of time that this bill will have on General File, on Select File, and on Final Reading. I have tried to be

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cooperative, believe it or not, the last few days. I demonstrated it when Senator Groene had a bill which easily could have been taken to cloture, and it probably would have gotten the votes. And the same thing could happen on Select File, but it won't. But with what I see developing now, all bets are off, not on his bill because he and I are working on that, but this kind of nonsense coming from Senator Murante, he can ace you all around but not me. And I'm going to redraft my resolution on Donald Trump, his leader, and I'm going to introduce it and we're going to have a debate on that. And I think it ought not be referred to his committee. And if you do then I'll offer a motion to rerefer it. And I will read that resolution every day for the rest of the session, and I'm going to start doing it tomorrow unless the Speaker can prevail on me not to do it. But in order for that to happen, there is a "quid pro" which is necessary, a precursor to obtaining the "quo." Quid pro quo: something for something. And I didn't think we were going to be here till midnight earlier in the day, but I think we'll have to be here or very close to it because I'm going to stay on this bill and I'm going to talk about whatever I want to talk about. And there are things that I do want to talk about. I'll point out what a racist Game and Parks Commission did because they know that the Legislature, comprising white people primarily, save me and one other black person... [LB948]

PRESIDENT FOLEY: One minute. [LB948]

SENATOR CHAMBERS: ...and now Senator Vargas, will have an almost knee-jerk, negative reaction to me. So I did prevail on the Legislature to enact a Mountain Lion Conservation Plate. You know how many they have sold so far? Close to 25,000, not the 2,500 that they thought when I offered the bill would sell, almost 25,000. You know how much money that has brought into the Game and Parks Commission? Two hundred sixty-three thousand dollars. Two hundred sixty-three thousand dollars and those racists came over here to oppose the bill. That's why I fight against Game and Parks. [LB948]

PRESIDENT FOLEY: Time, Senator. [LB948]

SENATOR CHAMBERS: Thank you, Mr. President. [LB948]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Bolz. [LB948]

SENATOR BOLZ: Thank you, Mr. President. For me analyzing this bill, the past is prologue. And I will never forget some of the hearings that we had on the LR424 Special Investigative Committee on the Department of Corrections. And I want to share with you a piece from a memo from the Ombudsman's Office. And of course the Ombudsman is a part of the legislative branch, so this is a memo from our branch in analysis of the Department of Corrections and the Administrative Procedure Act. To quote directly from the memo: Another important issue that

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has been uncovered by work of the LR424 Committee is the persistent and persuasive...pervasive failure of the Department of Corrections to promulgate its regulations as is required by the Nebraska Administrative Procedure Act. For example, consider the highly important regulations developed by the department in regard to the operation of the reentry furlough program, regulations which were never truly promulgated, as is required by the Administrative Procedure Act. According to the statute, DCS has a responsibility to promulgate all regulations that affect private rates, private interests, or procedures available to the public, a standard which would clearly apply to the reentry furlough program regulations, which not only determined which inmates would be considered for release but also had enormous implications for public safety. If the reentry furlough program regulations had been promulgated, as they should have been, then the public, not to mention the judges and law enforcement agencies, would have known about the basic outlines of the program and would have been notified when the department was considering amendments to the criteria of the program to allow violent offenders to be released under the program. At the very least, the promulgation procedure with its public hearings would have allowed for a lively, healthy discussion of the issues associated...associated with the implementation of the reentry furlough program. With this in mind, I would suggest that the LR424 Committee consider proposing legislation that would reinforce the department's obligation to immediately promulgate all of its policies, practices, and procedures that in any manner affect private rights, private interests, or procedures available to the public. And this experience weighs heavily on me as it relates to this piece of legislation. So if I read from the committee statement, the committee statement says, "the bill requires that agencies follow the APA rules promulgated by the Attorney General. Any agency wishing to differ from the Attorney General's rules must issue a finding stating why the relevant portions of the Attorney General's rules were impractical under the circumstances." So at this point I'd like to ask Senator Murante a question. [LB948]

PRESIDENT FOLEY: Senator Murante, would you yield, please? [LB948]

SENATOR MURANTE: Yes. [LB948]

SENATOR BOLZ: So, Senator, you are not responsible, of course, for past challenges with the Department of Corrections. That's not your responsibility. But you can understand, given my service on the Special Investigative Committee, my hesitation about changing anything related to the Administrative Procedure Act. So my question for you is, what circumstances would be appropriate for an agency to differ from the Attorney General's rules and what would happen then? If they issued the statement, then what? So what circumstances are appropriate and what happens once that statement, stating why relevant portions are impractical, occurs? What then? [LB948]

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SENATOR MURANTE: So the first question is very difficult to answer because it's difficult to come up with theoretical solutions for an answer to a theoretical question. I would say there are instances where... [LB948]

PRESIDENT FOLEY: One minute. [LB948]

SENATOR MURANTE: ...I can envision certain confidentiality challenges being needed to address in the rules and regulation process, whether we're talking about... [LB948]

SENATOR BOLZ: I appreciate that. And my concern is that that lack of clarity, that could lead to circumstances such as this circumstance when someone had a persuasive argument for why these regulations shouldn't be promulgated because we had an overcrowding problem to solve. And so in the moment, that seems reasonable or that seems like a justification for going outside of the Administrative Procedure Act when, in fact, it was very challenging and harmful. And I don't want to rush you or rush this conversation. So given the amount of time I have left, let's perhaps address the second question during my next time on the mike. Thank you, Mr. President. [LB948]

PRESIDENT FOLEY: Thank you, Senator Bolz and Senator Murante. Senator Harr. [LB948]

SENATOR HARR: Thank you, Mr. President. I was just trying to make a quick copy beforehand about what in the world is restrictive. What does that mean? And I'm still trying to figure it out. I found something from the Writer's Resource Lab from the University of California, Long Beach, that states restrictive or also called essential elements of a sentence are necessary to the meaning of the sentence, as the name suggests. They restrict the sentence to a particular meaning. If you are to remove the restrictive word, phrase, or clause, the sentence would have a different meaning. Isn't that what we're doing--changing the meaning? Now they may have picked certain points in the statute where at this current time the statutory language and the regulatory language are duplicative. I'm not sure if they did in every case, but that's a question that we're going to have, fortunately, a lot of time to determine that. Would Senator Murante yield to a question? [LB948]

PRESIDENT FOLEY: Senator Murante, would you yield, please? [LB948]

SENATOR MURANTE: I will. But I would notice that my name was pronounced differently by both of the people asking me to answer a question. But I will still answer the question because I think I understood who you were getting at. [LB948]

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SENATOR HARR: Senator "Shoemaker/maker" has the same problem. [LB948]

SENATOR MURANTE: (Laugh) Senator Morfield (phonetically) does as well, I believe. [LB948]

SENATOR HARR: Yes. [LB948]

SENATOR MURANTE: Senator Hinkleman (phonetically) can probably join us. [LB948]

SENATOR HARR: That's the beauty of having a simple name like Harr. [LB948]

SENATOR MURANTE: Yeah. (Laugh) [LB948]

SENATOR HARR: It's just no one knows how to spell it. [LB948]

SENATOR MURANTE: That's right. [LB948]

SENATOR HARR: I'm on line...I'm in the green copy,... [LB948]

SENATOR MURANTE: Okay. [LB948]

SENATOR HARR: ...page 10, line 6. I'll start on line 3. "Such information, including the identity of such driver or pedestrian and any such amount of alcohol or drugs, shall be public information and may be released or disclosed as provided," and we delete the rules and regs and say, "as provided by the Department of Transportation." All right? So before, if I wanted something released and the Department of Transportation said, no, we have discretion, look at the rules and regs, this will tell you when we can and can't, how do I now know when that rule or that information may or may not be replaced...or released? And to whom do I appeal to if I think I should have the information? [LB948]

SENATOR MURANTE: So it...what this does is it says that the information is public and that it will be released by the Department of Transportation. So the department... [LB948]

SENATOR HARR: That...actually, that's not what it says. It says "may" be released and may... [LB948]

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SENATOR MURANTE: May be released. It shall be public information and may be released as provided... [LB948]

SENATOR HARR: May be released. So now the information, you know, Department of Transportation says, Senator Harr, you have no right to it, and I say, well, yes, I do. And they say, well, no, you don't. And I say, well, where are the rules and regs that tell me what can and can't? How do I know? Is it arbitrary and capricious? How do I know when and where and how you release this information? And they say, exactly. Go talk to Senator...I'll just say the Treasurer, to make it simpler. [LB948]

SENATOR MURANTE: (Laugh) [LB948]

SENATOR HARR: So let me ask you, now there are rules and regs that say when this information may or may not be released. We eliminate the requirement for rules and regs. How am I supposed to know? To whom do I go? To what higher power do I appeal? Or is it just arbitrary and capricious? [LB948]

SENATOR MURANTE: I...well, I believe that what the Department of Transportation... [LB948]

SENATOR HARR: Well, we're making law. Do you know how do I do it, not believe? What would I do? [LB948]

SENATOR MURANTE: I can't tell you what you would do, Senator Harr. I'm not following the question you're asking me, Senator Harr. [LB948]

PRESIDENT FOLEY: One minute. [LB948]

SENATOR HARR: I think I made my point, folks. Before, there were rule and regs that told you when, where, and how, and what you were supposed to do, and when, where, and how the department will release it. Now, arbitrary and capricious, it's whatever the Department of Transportation wants. This is point one. We'll come back each time I hit my light, and I'm going to hit it. I'm going to show you another place where things have changed. You're right, I said earlier this appears innocuous. It does. And then we can lightly say, oh, well, it repeats statutory language; I won't show you where or cite that. But the fact of the matter is, folks, it's not just duplicative of statutory language. We're making real substantial and substantive changes. And we got to figure out how many are there and why are we doing it. What is the public policy reason to

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give this power from...to the Department of Transportation? I don't know. Hopefully, someone else can answer that question for me. Thank you. [LB948]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Krist. [LB948]

SENATOR KRIST: Thank you, Mr. President. I doubt that there's five people in this room when the room is full, and it's not full, that could tell me where to find the Administrative Procedure Act, nor the responsibility of the standing committee Chairs. And I won't ask anybody the question because I know Senator Riepe; Senator Murante; Senator Harr, who used to be a Chairman; Senator...I don't know if Senator Wayne knows the answer or not. I think there's a few other committee Chairs around here. But in Section 84-901.01: adoption and promulgation of rules and regulations; time; failure to adopt and promulgate; explanation; content; hearing by standing committees of the Legislature; effect of changes. You should actually read the statutes, committee Chairs, because in here it says: When legislation is enacted requiring the adoption and promulgation of rules and regulations by an agency, such agency shall adopt and promulgate those rules and regulations within one year, one year after the public hearing required under subsection (2) of Section 84-907. Such time shall (sic--shall not) include the time necessary for submission of the rules and regulations to the Attorney General pursuant to Section 84-905.01 or submission of the rules and regulations to the Governor pursuant to Section 84-908. Any agency that does not adopt and promulgate such rules or regulations as required by this section shall submit an explanation to the Executive Board, Senator Watermeier, if he were here, to the Executive Board that they haven't done it within one year...Legislature which has subject matter jurisdiction over the issue. The committee, the Executive Committee, will revert...revert it...refer it to the committee who has jurisdiction. If such...item (2): If such agency has not promulgated rules and regulations within three years after the operative or effective date of such enacting legislation, the standing committee of the Legislature which has subject matter jurisdiction over the matters included in the legislation shall hold a public hearing to determine the reason for such rules. Senator Riepe, I'm asking you to hold a public hearing because we passed a law of the jurisdiction of the Health and Human Services Committee that still rules and regulations have not been promulgated and it sits there. And prisoners are being released. The intent of that piece of law was to actually get them their Medicaid or Medicare recertification before they left so they could get their psychotropic drugs, they could get their insulin, they could have the things that they need to stay out of jail and not recidivate. These are the rules and regulations. And if Senator Thibodeau were still here, I had a conversation with her off the mike, this is what we're talking about. And anytime somebody says you, the Department of Insurance, which is in this bill, do not have to comply with the Administrative Procedure Act, the hair, what little there is, goes up on the back of my neck. Read the statute. And the committee Chairs have a responsibility to make sure every piece of legislation that we pass, with few exception, has to have some kind of rule promulgated and change in order to enact it. I would ask the Clerk to put that into the instructional manual or the couple of days that you might spend as a freshman

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senator to make sure you understand your responsibilities. That's why this piece of legislation is so ludicrous. Changing "shall" to "may" weakens the posture completely for the Legislature. This comes from an administration that does not know the rules, they do not know the law. This Governor has never had experience in dealing with the law, and now he's neglecting his responsibility by putting... [LB948]

PRESIDENT FOLEY: One minute. [LB948]

SENATOR KRIST: ...this silly piece of legislation in front of us because somebody from outside has decided these statutes don't count. I would contend they do count. And I would contend that most of the people in this room, if they did not know that before, are shirking their responsibilities, the oath that you took. Thank you, Mr. President. [LB948]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Baker. [LB948]

SENATOR BAKER: Thank you, Mr. President. I yield my time to Senator Harr. [LB948]

PRESIDENT FOLEY: Thank you, Senator Baker. Senator Harr, five minutes. [LB948]

SENATOR HARR: Thank you, Senator Baker. Once again, I was running back finally to get that report from Mercatus and I'm not going to be able to get it in time to talk about that report, which, according to the Governor's spokesperson, Taylor Gage, is the basis for this law. But, instead, I am forced to go back to the bill itself and to try to figure out why we need this law and what it does. Would Senator...oh, thank you...Murante yield to a question? [LB948]

PRESIDENT FOLEY: Senator Murante, would you yield, please? [LB948]

SENATOR MURANTE: I would love to. [LB948]

SENATOR HARR: Did I get the pronunciation correct? [LB948]

SENATOR MURANTE: I'm sorry, would you repeat the pronunciation? [LB948]

SENATOR HARR: Murantay (phonetically)? [LB948]

SENATOR MURANTE: Nope. [LB948]

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SENATOR HARR: I thought it was like Duran...what is it? How do I do it? [LB948]

SENATOR MURANTE: You don't end in "A." If you end in "A," you're doing it wrong. [LB948]

SENATOR HARR: Okay, so how do I do it? [LB948]

SENATOR MURANTE: Murantee (phonetically). You got to be real nasally, almost like Wisconsin. [LB948]

SENATOR HARR: Nasally. [LB948]

SENATOR MURANTE: Yeah. [LB948]

SENATOR HARR: If there's one thing I can do it's nasally. [LB948]

SENATOR MURANTE: All right. There you go. [LB948]

SENATOR HARR: So, all right. I am on page 13 now and I'm on line 7. It says: The department shall promulgate or shall adopt and promulgate rules and regulations establishing requirements for order, acknowledgment, acknowledgment by initialing, and conspicuous placements and disclosures set forth in Section 69-2104. [LB948]

SENATOR MURANTE: You said this is page 13, line 7? [LB948]

SENATOR HARR: I'm sorry. Line 19, section (7). [LB948]

SENATOR MURANTE: Line 19, section (7), okay. [LB948]

SENATOR HARR: Section (7). So it's that sentence. I'll give you a second to read it and then tell me why we went from "shall" to "may" there. [LB948]

SENATOR MURANTE: Because, according to the department, the... [LB948]

SENATOR HARR: And which department is that? [LB948]

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SENATOR MURANTE: This is, hold on for a moment, Department of Banking and Finance, that the statutory language was sufficient to spell out how the...what needed to be laid out and, therefore, the rules were unnecessary. [LB948]

SENATOR HARR: Okay. And what does this relate to? [LB948]

SENATOR MURANTE: Are you talking about the disclosure as set forth? You're asking what's... [LB948]

SENATOR HARR: Yeah, what disclosures? [LB948]

SENATOR MURANTE: ...Section 69-2104 is? [LB948]

SENATOR HARR: Yeah. [LB948]

SENATOR MURANTE: Okay. Hold on one moment, please. [LB948]

SENATOR HARR: Right, it's about "Lessor; disclosures required." And so they're saying there are enough lessor-required disclosures, is that correct, and "they" being the Department of Banking? Is that correct? [LB948]

SENATOR MURANTE: Repeat your question for me one more time. [LB948]

SENATOR HARR: So what you're telling me is the Department of Banking says they don't need rules or regs regarding lessor disclosure requirements. [LB948]

SENATOR MURANTE: They don't need to adopt new rules and regulations because what is laid out in the statute is sufficient. [LB948]

SENATOR HARR: And what, what is that, that is sufficient? [LB948]

SENATOR MURANTE: The... [LB948]

SENATOR HARR: I don't understand why... [LB948]

SENATOR MURANTE: The act. [LB948]

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SENATOR HARR: Okay. And what are those... [LB948]

SENATOR MURANTE: Because usually in...and if I may just very brief... [LB948]

SENATOR HARR: Yeah. [LB948]

SENATOR MURANTE: ...and if I need, put my light on and give you more time. What...there has...what often happens in many of these is it's not a specific singular statute. It's the entirety of an act, like what we were talking about with special elections by mail. It's not one individual statute. It is the entirety of Section 32-501... [LB948]

PRESIDENT FOLEY: One minute. [LB948]

SENATOR MURANTE: ...through 525... [LB948]

SENATOR HARR: Okay. [LB948]

SENATOR MURANTE: ...that spell out how it's supposed to be laid out. [LB948]

SENATOR HARR: And this is their belief, not your belief. Is that correct? [LB948]

SENATOR MURANTE: It was...so the process was there was an executive order; there was a task force... [LB948]

SENATOR HARR: Okay. [LB948]

SENATOR MURANTE: ...that was issued. The agencies reported back as to which of the rules and regulations... [LB948]

SENATOR HARR: Okay. Thank you. [LB948]

SENATOR MURANTE: ...basically mirrored statute. [LB948]

SENATOR HARR: See, folks, here again, once again, this was brought on behalf of the Governor. Think about that--came on behalf of the Governor and is moving power from us to him. That's what the bill does. Here they're saying, well, don't look at this one little section; look

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at the whole baby. You got to look at the whole thing. But then no one cites specifically what the statute is, what the rule and the reg is, and how they're repetitive. Why? Because they aren't. This is a power grab, power grab, power grab. Thank you. [LB948]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Schumacher. [LB948]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I can guarantee you one thing. In the "New City" there won't be 7 million words of regulation. That being said, I think we're entering into madness territory here on everybody's side. And I try to think this through. Our constitution says the legislative, the rule-making power shall be vested in the Legislature. The executive, the enforcement power shall be vested in the supreme authority of the Governor. And so we have the power to pass a law. And if we really get down in the weeds with the law and understand what we're doing, which most of the time we don't, and write a very clear, detailed, step-by-step law, take a skeleton and flesh it out and put skin and hair on it and make it walk and talk, if we do that we don't need any regulations because we have said what the law is and we have clearly given the Governor his marching orders. That's probably the best kind of law. We write it; the Governor, he or she, enforces it. But then we have problems with the real world because we don't know all the details that a law might entail. We don't know exactly how that impacts the real world at a penitentiary or at a bank or with an insurance company. And so we kind of shrug off and we say, here's the skeleton, and we throw in language that apparently has evolved to saying--kind of goes into most of these bills--and the department of such-and-such shall write rules and regulations. I always interpreted that to mean that they fill in the flesh on a skeleton that we put out there, but apparently I might be wrong on that. Because apparently, in a lot of cases, the departments say, well, they say we shall write rules and regulations so we will ditto in large measure over into the regulation book what the Legislature said because they said we shall. Maybe that's a misunderstanding. Maybe we meant they shall fill in what we haven't said, not just ditto in what we have said, and that's just maybe the way it's evolved. But when they do this dittoing-in process, we got this rule in statute called the Administrative Procedure Act and that tells the administrative agency how it's supposed to behave in drafting the regulations, what kind of hearings it's supposed to have, when somebody who's before them has a right to appeal to the courts and those kind of things. And then we get to the power conflict that's being alleged here. And I'm not sure if it's really there or if it's just a little paranoia that begins to happen or if there's really substance here or not, because somebody wants to get a good rating from a regulatory rating agency to get a high score on some chamber test or something. I don't know. But what we end up having is fear that the executive branch, if they don't like a law, just won't veto it. If we did our job loosely and didn't... [LB948]

PRESIDENT FOLEY: One minute. [LB948]

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SENATOR SCHUMACHER: ...fill it in they'll just blow us off and, therefore, they won't have to enforce anything and they won't have to embarrass themselves or suffer the chance of being embarrassed in a veto override. I think if there's 7 million words, we're down to these few that are regulations that need to be reworked, that maybe we haven't done our job very well and tried to sort out this problem. I'm still very much on the fence on this particular item. I think 7 million words is obscene. At the same time, I think that a executive branch with too much discretion is also not within the law and needs to be addressed. So I'm listening very closely. I think some very good arguments have been made. This is a debate that probably should go on when we're a lot sharper than we are at 9:00 at night. But life is life and that's why we signed up for the high-pay job. Thank you. [LB948]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Chambers. [LB948]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I do read the Nebraska Constitution. In Article IV, Section 6, "The supreme executive power shall be vested in the Governor, who shall take care that the laws be faithfully executed." If the Legislature passes a law and directs an executive department to write rules and regulations, it's the Governor's job to see that they do it. This Legislature of you all, see the color of that binding, that binding is black. What's in it is white. You all are the whites, because that's where the power is. The binding has no value whatsoever. The white inside, and you white people said that the Governor is the one with the supreme executive power and it is his duty, according to your white people's constitution, to see that the laws are faithfully executed. And he tells you white people in this white Legislature, when you pass a law and say that there should be rules promulgated, he tells them you don't have to do it. And now he's coming here and telling the Legislature, ratify what I've done in disregarding the Legislature. And you all whine too much instead of using the power that the Legislature has. What the Legislature can do is enact any law that it chooses, to criminalize any act that it chooses, and annex a penalty to that law for its violation. I used to say that when we enact a law that places a responsibility on an agency head, there's no need to attach a criminal penalty because their integrity, their duty, their oath will lead them to do the job and we don't need to threaten them with criminal punishment. But obviously we do. The Governor could have ordered those people to promulgate those rules that have not been handled in all these years, but he's not going to do it because the Catholic Conference doesn't like some of them, doesn't want some, and they can't pass muster with the Catholic Conference, which is a supreme, a superior, super-legislature in and of itself. And it tells the Legislature, go to hell, and you all dutifully go. You just say, boy, I hope I got some asbestos trousers and bloomers on because the Catholic Conference told me where to go and I better do what they told me to do. And you all don't want me to say it. Well, it's an insult to me because I'm a member of this Legislature, but I cannot carry all of it on my back. I'm not Atlas. But I can try to get you members of the master race to do what you should do to live up to your designation as the master race. You all are detrimental to the cause of White Supremacy. You have supreme lawmaking authority in this

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state and you are afraid to use it. And you let a pipsqueak Governor tell you, I'm not going to do what you said and I'm going to send my flunky, the son of a pizza maker, with a law that ratifies what I've done and my agencies don't have to write any rules and they can say that the law in the statute books is enough. No. We make that determination. They don't have the discretion to disobey the law. [LB948]

PRESIDENT FOLEY: One minute. [LB948]

SENATOR CHAMBERS: That directive is there. That's what they're to do. They're lucky they got you all in these positions. You put these ignoramuses in these positions as Chairpersons and they don't even know what the law is with reference to the duties and the powers of a Chairperson, which are in the statutes, written by this Legislature. But they don't have to know. Just get 27 people approved by the "Repelican" Party and they say put this one in as a Chair, put that one in as a Chair, put the other one in as a Chair. And the one who prioritized this bill is not even here. I don't blame her for being embarrassed. She was "token." Sidney Poitier was in a movie and he said there are two classes of people, the takers and the "token," and some people are always being "token." Senator Thibodeau was "token" and Senator Murante did it. [LB948]

PRESIDENT FOLEY: Time, Senator. Thank you, Senator Chambers. Senator Howard. [LB948]

SENATOR HOWARD: Thank you, Mr. President. I want to go back to the Domestic Abuse Act that I had been talking with Senator Murante about previously. He gave me the statute Section 42-901, the Domestic Abuse Act, which was created in 1978. And under it, the section that lives inside of LB948, talks about how these rules and regulations can relate to fees charged, to training, and administration of the program. The program is support for victims of domestic violence. It provides services for children. It also requires a form of client feedback and, literally, the statute just says they will find a way to develop a method of client feedback. The statute is more of a guidepost here rather than a regulation in the sense that it would be of practical purpose. And so, in that regard, I do rise with concerns about changing this "shall" to a "may." But with that, Senator Murante, would you yield to a question? [LB948]

PRESIDENT FOLEY: Senator Murante, would you yield, please? [LB948]

SENATOR MURANTE: Yes. [LB948]

SENATOR HOWARD: Do you know, are there current regulations around the Domestic Abuse Act? [LB948]

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SENATOR MURANTE: In my understanding, Senator, with the information I have in front of me is that the answer is yes and that the regulations which are promulgated that are amended by this are a reflection directly of statutory language. [LB948]

SENATOR HOWARD: So when it calls for the creation of a curriculum but it doesn't specify what goes into the curriculum, is that...would that apply to the regulations? [LB948]

SENATOR MURANTE: So can you point to the section of the bill that we're talking about right now? I apologize. I've been going back and forth with a number of different senators, Senator. [LB948]

SENATOR HOWARD: Sure. So 42-922 is the one that says that you shall create regulations to follow the Domestic Abuse Act. Within the Domestic Abuse Act, 42-914, it says that they need to develop an educational curriculum but it doesn't specify what the curriculum is. And the curriculum itself would live inside of regulations, not necessarily in the statute. You had indicated that everything that we needed for regulations was already in this piece of law, but I'm not seeing it reflected there. [LB948]

SENATOR MURANTE: Okay. Senator, if I might, if you'd give me an opportunity to review this and get back to you, I would appreciate it. [LB948]

SENATOR HOWARD: Absolutely. And then, Senator Pansing Brooks, could I have my green copy back? (Laughter) Okay. Senator Murante, while I've got you, my second question that I didn't get to my first time on the mike was on page 34. So this is around the Attorney General's promulgation of rules. [LB948]

SENATOR MURANTE: Uh-huh. [LB948]

SENATOR HOWARD: And you're removing the word "model" that the Attorney General...I'm guessing the process is that the Attorney General promulgates model rules and then each agency sort of adopts them as their own? Is that the process currently? [LB948]

SENATOR MURANTE: That's essentially the process right now, yes. [LB948]

SENATOR HOWARD: And so the way that this would be impacting those agencies would be that the Attorney General would just adopt rules and then they would apply to every agency evenly? [LB948]

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SENATOR MURANTE: No, not necessarily. So it allows for the agencies to deviate but they have to give a reason for the deviation. Right now there's no reason that is being called for. Right now they can just basically use the model and use any process that they want to with no explanation, that's the end of the story. What this bill does is say we're using the Attorney General's standards unless you want to deviate, at which point you have to give a reason. So there's at least some rationale given to the public. [LB948]

SENATOR HOWARD: And so you give the reason to the Attorney General or you give it by notice to the public? [LB948]

SENATOR MURANTE: I believe it's by notice to the Attorney General. [LB948]

PRESIDENT FOLEY: One minute. [LB948]

SENATOR HOWARD: So, and the only reason why I wanted to ask about this is because specifically in Health and Human Services we have very specific notice requirements that follow, like, CMS that are different than model rules that the Attorney General would be putting forth. And so I wanted to make sure that these rules that the AG would be putting forth wouldn't be binding for an agency that needed to meet federal requirements. [LB948]

SENATOR MURANTE: They are not binding, no. [LB948]

SENATOR HOWARD: Okay. Perfect. So with that, I hope that you'll be able to get back to me on the Domestic Abuse portions of this bill... [LB948]

SENATOR MURANTE: Will do. [LB948]

SENATOR HOWARD: ...and how they align with Section 42. Thank you, Mr. President. [LB948]

PRESIDENT FOLEY: Thank you, Senator Howard. Senator Pansing Brooks. [LB948]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. Well, I rise with great concern about taking laws that have been passed by previous Legislatures and all of a sudden just changing them to say "shall" rather than "must." And you know, we already have a situation, colleagues, where an agency has decided not to follow a law that we have passed and that was...I think Senator Chambers referenced it, but in 38-2138 it talks about the mental health

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practitioners and the Board of Psychology. And it says, "The board shall adopt." I was looking through to see if this has been changed in this bill but, "The board shall adopt a code of ethics which is essentially in agreement with the current code of ethics of the national and state associations of the specialty professions included in mental health practice and which the board deems necessary to assure adequate protection of the public in the provision of mental health services to the public." We know that for the past ten years, since 2008, the Department of Health and Human Services has decided that they will not follow that law and are in direct contravention of that law by not adopting the request by the Board of Psychology to adopt the national board of ethics, which has been the national code of ethics that's been passed by the national and state associations. This relates, of course, to the issues that Senator Chambers referred to regarding LGBT members and it deals with referral. So if somebody is truly sick and has issues and you have a preexisting, I would say, hatred of LGBT people, then you don't have to refer them on no matter how sick they are and how hurting they are. And so we have an example right now in our...in our everyday lives where the state is not following a direct law, and that's under...that's under 38-2138. I have real concerns about just changing things that prior Legislatures deemed appropriate that they shall fulfill certain requirements. The discretion that is...that's being allowed doesn't provide continuity or dependability for the people in our state. Why would we give more discretion than previous Legislatures deemed appropriate? And because of this, I just feel like that we have a case where we already have the Department of Health and Human Services already overstepping their authority and in direct contravention with our laws. And so to allow these agencies to all of a sudden, well, just do it whenever they feel like, well, you know, I don't really feel like we should do...to adopt the rules right now on this. And we've got various groups that indicate that it's not appropriate to, again, to--sorry, I'm distracted--that we have various groups that are telling agencies that they don't like certain regulations or don't want to be forced to promote certain acts or to do certain things that make our communities more safe. So again, I am... [LB948]

PRESIDENT FOLEY: One minute. [LB948]

SENATOR PANSING BROOKS: ...very reluctant to relinquish any discretion or power to the various agencies. I think that this is walking completely the wrong way down the road. And I will stand in favor of the bracket and do what I can to stop this legislation. Thank you, Mr. Lieutenant Governor. [LB948]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Bolz. [LB948]

SENATOR BOLZ: Thank you, Mr. President. If Senator Murante would yield, I just wanted to continue on with the discussion we were having the previous time on the mike. [LB948]

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PRESIDENT FOLEY: Senator Murante. [LB948]

SENATOR BOLZ: (Laugh) While he's finding his way to the microphone, I'll mention, because I do work in the disability field, I'm very familiar with a number of rules and regulations. And it's an interesting fun fact that the disability field is one of the highly...most highly regulated industries in the country. I think we're beat by nuclear energy. (Laugh) So this is something that I work with in my professional life. So I do think that rules and regulations or the promulgation thereof are particularly important, but maybe that's a conversation for another time on the microphone. Senator, I was hoping we could finish the conversation we started the last time on the microphone. The first question was the bill, the bill summary statement states that agencies should follow the APA rules promulgated by the Attorney General and that any agency wishing to differ from the AG's rules should issue a finding stating why the relevant portions of the AG's rules were impracticable. What do you think are some reasonable circumstances under which that difference would be appropriate? [LB948]

SENATOR MURANTE: Senator, I think it's important to, if I may, kind of go through the logic of where this came from. And the challenge that was discussed in the drafting of this bill is that under the present system we have what's basically a model that the Attorney General comes up with, and then the agencies sort of do their own thing. And it's not binding, and what's provided in this bill isn't binding. But it's not...we're basically taking that logic and using the reverse and we're saying what the Attorney General does is the way that the rules and regulations process ought to proceed, but if you need to do something differently you have to provide a reason. Right now there is no requirement to do that, so that's why. The hope is that this will--and I believe that it will--further streamline that rules and regulations process across state agencies. [LB948]

SENATOR BOLZ: That standardized process, does it address things like time frames, formatting, definition of terms? Is that what the AG is standardizing? [LB948]

SENATOR MURANTE: Well, so it's standardized across the board but it's important to remember that it's not mandated across the board. It's not to say that a state agency doesn't have the authority to come in and say, well, actually in this set of circumstances we have a unique situation and we need to do things a little bit differently. They still have the authority to do that and they can do things differently, but they have to provide a reason for it. And hopefully, some of those variations are less technical in nature and more substantive in nature. [LB948]

SENATOR BOLZ: So what's the value of stating the difference or stating the reason for the difference? What added value does that have? [LB948]

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SENATOR MURANTE: I think it's a transparency issue and some sort of understanding for the public who deals with these sorts of things, especially from members of the public who may deal with differing...different state agencies who have to go through what ought to be a very comparable process. By stating a reason there's at least a rationale provided for the public so that they can judge for themselves when they come. [LB948]

SENATOR BOLZ: And would you clarify for me? I was listening to debate but I'm not sure I understood the answer. So is that reason publicly published or is it just on record or on file with the Attorney General's Office? [LB948]

PRESIDENT FOLEY: One minute. [LB948]

SENATOR MURANTE: So it's...the reason would be public record. Whether there is like a notice requirement or any such thing, I'm not familiar with that, like a publication in a newspaper or a circular. I'm not aware of any such... [LB948]

SENATOR BOLZ: Sure. Sure. Okay. I appreciate that. So in my professional life, one of the things that I do is follow changes to administrative rules and regulations. And I have to say that following the process and the procedure, it's really...it's challenging, not just because it's challenging to keep up with but also because people have to follow those rules and regulations and the changes and weigh in and provide advocacy in addition to running their businesses, in addition to the day to day, in addition to keeping the lights on, in addition to trying to turn a profit sometimes. And so these changes that are unclear as to when, why, and how they can or can't differ or how the public does get information about when that is and isn't appropriate, from a practical perspective, I... [LB948]

PRESIDENT FOLEY: Time, Senator. [LB948]

SENATOR BOLZ: ...I have some hesitation. Thank you, Mr. President. [LB948]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Harr. [LB948]

SENATOR HARR: Thank you, Mr. President. So on July 7, 2017, Omaha World-Herald: Ricketts aims to cut red tape and some of the 7.5 million words in state regulation. He orders all agencies to review rules for trims. In the article, Ricketts, and this is a direct quote: Ricketts said initiative...the initiative builds on a study of state regulations done by Mercatus Center at George Mason University, unquote. Well, in my hand I have Mercatus Center, George Mason University, April, "A Step-by-Step Guide to Using Mercatus Tools to Reduce State Regulation Levels,"

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April 11, 2017. So this was published a mere two or three months before our Governor then decided to take that into his own hands. And in that it says, "Step 1: Define Regulatory Burdens." Regulatory burdens can be measured in a number of ways. For example, it can be measured in terms of the number of pages in the state administrative code, the number of final rules published by the agency, or paperwork compliance or social costs that the rules impose on the public. Restrictive words including (sic--include) legal obligation and prohibitions on the public...on the public and are signified by words and phrases such as "shall," "must," "may not," "prohibited," and "required." "Step 2: Establish a Baseline." And when they talk about find a word or words that you like that you want to eliminate. "Step 3: Set a Target Reduction Goal and a Deadline." After establishing a baseline, the government (sic--governor), state legislature, or some other body will set a goal of how much the code should be reduced. This will be largely...this will be largely a political decision. Ding, ding, ding, ding, ding, ding. Folks, this bill is a political decision. Since it's difficult...let me restate that. This will largely be a political decision, since it's difficult to know...difficult to know the right amount of regulations in any state. However, the perception of how much unnecessary regulation exists will vary by time and place as well as across populations affected. "Step 4: Create an Oversight Mechanism." Senator Murante was fortunate enough to serve on that. "Step 5: Establish a Process to Review the Code and Get Buy-In from Regulators." Well, guess what? When you're the Governor and you oversee the regulators, it's pretty darn easy to get that buy-in. "Step 6: Institutionalize a Regulatory Budget." I haven't seen that. And then the conclusion. Folks, when evaluating rules and regs and what's necessary and what's not necessary, words matter, specific words do not. It's about the quality of the rules and regs, not "may" or "shall" or "must" or "prohibited," but do those rules and regs, in the least intrusive manner possible, taking into account the cost-benefit, carry out the underlying purpose of that law? That's what you look for... [LB948]

PRESIDENT FOLEY: One minute. [LB948]

SENATOR HARR: ...when writing rules and regs, or at least that's what a proper review, not looking, doing a word search that Mercatus sets up for you of 7.5 million words to find where the word "may" or "shall" should be interchanged. No, that's not real review. That's a political statement. This bill is a political statement. This is a way for the Governor to stand up and say, I made a change, I've cut the red tape. But in reality it's sound and fury signifying nothing, with the exception that now he doesn't have to do as much. But it doesn't clarify or make better regulation. That's what we're looking for--better regulation. Thank you. [LB948]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Chambers, you're recognized. This is your third opportunity. [LB948]

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SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, look how empty this Chamber is. You know what I told you all the other night? At 9:00 I become energized. I can stay here till midnight. You all know how to...I don't know how to dance. I won't dance. But there's a song: (singing) I could have danced all night. Well, I can stay here. This is a part of my job. And I'd like to ask Senator Murante a question. And I see him over there. I'll give him time to come. And it's not going to be a difficult question for him to answer, if he chooses to respond. But while he's coming, this is following in the footsteps of Donald Trump who says he's going to cut all these regulations. And I have some things I'm going to read into the record about him and this woman that he had a sexual liaison with, and he tried to have her lawsuit dismissed and the judge said, no, you won't, oh, no, this case is not going to be dismissed. If Senator Murante will... [LB948]

PRESIDENT FOLEY: Senator Murante, would you yield, please? [LB948]

SENATOR MURANTE: I would absolutely love to. [LB948]

SENATOR CHAMBERS: Okay. Since there has been some discussion of the proper pronunciation of your name, do you speak Italian? [LB948]

SENATOR MURANTE: I know a word or two. [LB948]

SENATOR CHAMBERS: How is the letter "U" pronounced standing alone... [LB948]

SENATOR MURANTE: "U." [LB948]

SENATOR CHAMBERS: ...in Italian? If you're going through the alphabet... [LB948]

SENATOR MURANTE: I don't know the answer to that. [LB948]

SENATOR CHAMBERS: Would it be "you" (phonetically) or "ooh" (phonetically)? [LB948]

SENATOR MURANTE: I'd have to review my Dean Martin song collection, Senator. [LB948]

SENATOR CHAMBERS: Okay. Are there times when the letter "C" has the "CH" sound? [LB948]

SENATOR MURANTE: Yes. [LB948]

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SENATOR CHAMBERS: Okay. Are there times when a double "C," depending on where they occur in a word, will have a "CH" sound? [LB948]

SENATOR MURANTE: Like Bocce ball, yeah, uh-huh. [LB948]

SENATOR CHAMBERS: Now there was a Borgia and his name was spelled C-e-s-a-r-e. How would you pronounce his name? [LB948]

SENATOR MURANTE: (Laugh) I would pronounce it as he wanted it to be pronounced, Senator. [LB948]

SENATOR CHAMBERS: And he wanted it to be pronounced in Italiano. So how would he want it...how would you...? [LB948]

SENATOR MURANTE: If he went by Borgia, I would call him Borgia, out of respect. [LB948]

SENATOR CHAMBERS: No, his first name... [LB948]

SENATOR MURANTE: Oh, I'm sorry. [LB948]

SENATOR CHAMBERS: ...because Borgia kind of anglicizes it. C-e-s-a-r-e, how would you pronounce his first name? How would you pronounce, in American, C-a-e-s-a-r? [LB948]

SENATOR MURANTE: Caesar. [LB948]

SENATOR CHAMBERS: Caesar, okay. How would you pronounce C-e-s-a-r-e? [LB948]

SENATOR MURANTE: Probably Say-zar (phonetically). [LB948]

SENATOR CHAMBERS: Chez-a-ray (phonetically). [LB948]

SENATOR MURANTE: All right. [LB948]

SENATOR CHAMBERS: Chez-a-day (phonetically). [LB948]

SENATOR MURANTE: Uh-huh. [LB948]

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SENATOR CHAMBERS: And your name would be pronounced Mor-ron-tay (phonetically). Correcto? [LB948]

SENATOR MURANTE: (Inaudible). I was in Italy and that's how they pronounced it. [LB948]

SENATOR CHAMBERS: See? And I'm not saying yes in Espanol. That's all I wanted to ask you. If we want to talk about the proper pronunciation of the name, we should say, in the language where the name originates or in American? Because you all don't speak English; you all speak American. That's all I wanted to ask Senator Mor-ron-tay (phonetically), but I'm going to pronounce it Murante because he wants it anglicized. So if he wants it anglicized I will anglicize it. Mohammed Ali wanted to be called Mohammed Ali. That's what I call him. White people insisted on calling him Cassius Clay. That when the Pope takes a number for his name, they call the Pope by that number--John Paul II. Segundo? Secundus? No, second, two Roman numerals. That's not a name. But if the Pope says it is, that's what it is and you all call him that. But you can't call a black man what he wants to be called. [LB948]

PRESIDENT FOLEY: One minute. [LB948]

SENATOR CHAMBERS: Senator Murante wants to be Murante or Mor-ron-tay (phonetically). Whatever he wants, that's what I...that's the way I'll pronounce his name. Members of the Legislature, I intend...is this my closing or the last time? [LB948]

PRESIDENT FOLEY: You still have your closing remaining. [LB948]

SENATOR CHAMBERS: Say it again. [LB948]

PRESIDENT FOLEY: You have not used your closing yet. This is not your closing. [LB948]

SENATOR CHAMBERS: Okay. Then I'll stop until I'm recognized for my closing. Thank you, Mr. President. [LB948]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Pansing Brooks. [LB948]

SENATOR PANSING BROOKS: Thank you, Mr. President. I think I'm going to give my time to Senator Chambers, if he'd like it. [LB948]

PRESIDENT FOLEY: I'm sorry, Senator Pansing Brooks, I didn't... [LB948]

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SENATOR PANSING BROOKS: No, that's okay. I said I was going to give my time to Senator Chambers, if he'd like it. [LB948]

PRESIDENT FOLEY: Very good. Thank you, Senator Pansing Brooks. Senator Chambers, 4:30. [LB948]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, "Goddaughter." This was from Reuters, R-e-u-t-e-r-s, not Rooters, not Roto-Rooter. They pronounce it Roy-ters (phonetically). I don't know why, but that's what they want to be called, Roy-ters (phonetically). "Trump loses bid to dismiss accuser's defamation lawsuit." "A woman who said Donald Trump sexually harassed her after she appeared on his former reality show, 'The Apprentice,' can proceed with her defamation suit against him, a New York State judge ruled on Tuesday, raising the possibility of the U.S. President being forced to answer questions about his behavior toward women." Justice Jennifer, and I'm going to pronounce it Schecter, S-c-h-e-c-t-e-r, in the Manhattan Supreme Court, that's not the top court in New York. That's something like a mid-level court. Jennifer..."Justice Jennifer Schecter in the Manhattan Supreme Court said there was 'absolutely no authority' to dismiss or stay a civil lawsuit by Summer Zervos," Z-e-r-v-o-s, "related 'purely to unofficial conduct' because Trump was U.S. President." In other words, his being President did not justify dismissing this lawsuit when it was based on unofficial actions. Quote from the judge, "No one is above the law." And that is the way you answer the question on the citizenship test when they ask you, what is the meaning of the statement rule of law? It means no person, they usually say no man, is above the law. Continuing, "Trump was not immediately available for comment. A lawyer for Zervos was also not immediately available." Where was the "tweeter-in-chief"? Where was the "tweeter-in-chief"? He always has a lot to say. But he was quiet. And he lies like a crosstie, an inveterate, pathological liar. Continuing, "The ruling could force Trump to submit to questioning by lawyers for Zervos and lead to further public scrutiny of other claims of sexual misconduct that have been made against the President." Suppose there were all these women and they came and accused President Obama. What do you think would happen in this racist society? And you got a Governor following Trump in every way, people on this floor supporting Trump. An admitted serial sexual predator is the President of the white United States of America, a sexual predator. And all of these kind of religious people--I think Senator Geist is one of those churches, Evangelicals--and they follow Trump, a serial sexual predator. And they are the especially chosen people of God. Humbug! Continuing: During the 2016 presidential campaign, Zervos, a restaurateur,... [LB948]

PRESIDENT FOLEY: One minute. [LB948]

SENATOR CHAMBERS: ...was one of several women who accused Trump of sexual misconduct after the emergence of a conversation caught on an open microphone in 2005, in

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which Trump spoke vulgar terms about trying to have sex with women. You saw how they criticized my seatmate, Senator Blood, for using an anatomically correct term. And what did Trump say? He grabbed women's p...y, and he said the word, your President, your Christian President, the leader of your country. And that guy who attacked Senator Blood won't attack Trump. Neither will that Maxwell person. He needs to go back to making coffee, Maxwell House. [LB948]

PRESIDENT FOLEY: Time, Senator. Thank you, Senator Chambers. Senator Bolz, you're recognized, your third opportunity. [LB948]

SENATOR BOLZ: Thank you, Mr. President. I thought I'd use my third time on the mike to talk a little bit about how the rules and regulations process can actually be effective and protect people's health and safety when it is appropriately used. And you know, there's been lots of conversations on the floor, myself included, about circumstances in which administrative rules and regulations haven't worked as they should. But there are circumstances in which they are working really, really well. And I don't...I want to kind of counter the points that rules and regulations are always burdensome or they're always too much, because in the field that I work in, in the developmental disability field, they actually are very useful and provide important clarifications and protections. And I will say that, for the record, I have filed a conflict of interest statement related to my employment and the organization for which I work does not have a position on this bill, for the sake of ethics. But I do want to talk a little bit about my experience in working through the regulatory process. I've spent a lot of time doing that over the past couple of years. And some of the issues that we've hammered out through conversations with the Department of Health and Human Services and through the administrative rule-making process include everything from aligning regulation with existing state statute to consistency in regulations requiring liability insurance in case the worst-case scenario happens; clarifying definitions about what it means to be a high school graduate, because in the developmental disability field a person might not leave public education until the age of 21; regulations regarding what it means to be an agency provider versus an independent provider and what the requirements should be for both; ensuring that people who are providing services to individuals with developmental disabilities have CPR and first-aid training. And all of these things have value and particularly when we're talking about vulnerable populations and individuals who have very specific circumstances and very specific needs. Those regulations not only protect individuals with developmental disabilities. They also protect the providers that are providing those services, providing that clarity so that they don't get out of alignment with rules and regulations, so that they can appropriately bill for services. And so I don't mean to go on and on about my personal experience or to draw this debate into something just related to my field of interest. I do, however, use this as an illustration that regulations appropriately promulgated do have value. And when we're talking about things that are as important as people's health and safety, there shouldn't be exceptions to the rules and we should have consistency in process. And

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sometimes there should be a "shall," especially when those rules and regulations relate to somebody's quality of life, relate to someone's personal choice. And so, colleagues, I just add that to the dialogue and the discussion that we're not just talking about rules and regulations as a burden. Rules and regulations can be an opportunity and can be an important tool. So I add that for discussion and I'll leave it there, Mr. President. Thank you. [LB948]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Harr, you're recognized. Senator Harr passes. Senator Pansing Brooks. [LB948]

SENATOR PANSING BROOKS: Thank you, Mr. President. I am just going through the bill rapidly just to be able to put on the record the various areas where we want the departments to maybe produce regulations and maybe not. They include enterprise zones. They include rules and regulations regarding the Department of Motor Vehicles. It includes, as Senator Howard mentioned, the Domestic Abuse Act. It includes regulations regarding the Department of Insurance, the Environmental Quality Council, the Tax Commissioner, and county assessors, the Department of Economic Development regarding the Nebraska Affordable Housing Act. They can just make these rules or not. And even though we now require them to make rules, they can just decide, well, we're going to...we're not going to really worry about these, creating these rules and...because we already know that they've done this, they've already violated the law regarding the code of ethics in 38-2138. Going on, the Uniform Anatomical Gift Act, we have directed what should be done. They want to say, well, maybe we'll do it, maybe we won't. Accidents and rules regarding what the coroner does, this isn't just some little tiny bill. This is acquiescing to our powers in the legislative body, as the legislative...as one of the three branches of government. The rules and regulations regarding rentals, the Administrative Procedure Act, I'm...the Department of Administrative Services may or may not perform rules and regulations, the Tax Equalization Review Commission, real property appraisals, the tax base for leased vehicles, sales tax. Have you all looked at this? We can either create rules and regulations or we may not regarding the sales tax. Tobacco taxes, the Employment and Investment Growth Act, so, colleagues, I just think this is complete overreach. I appreciate that Senator Thibodeau has worked on something that she sees some value, but as I look back at the discussion within the hearing, most of this wasn't even discussed, so that's part of the problem. And I did talk to one of the other committee members. There was no discussion about all this. There was no...there was not in-depth discussion about the fact that all of these entities within our state may or may not have to create and formulate rules and regulations which the state can then understand, which our citizens can understand and follow. And it's just going to be up to the whim of whatever, whatever agency is in there at the time and whatever leadership is in there at the time. Talk about a lack of knowledge to be able to follow what is appropriate and what the rules are. We did not create these rules saying that each body shall do this or that in order to be punishing businesses or in order to make it more difficult to move forward. [LB948]

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PRESIDENT FOLEY: One minute. [LB948]

SENATOR PANSING BROOKS: These laws are set by previous Legislatures in order to protect our citizens, to help make consistency in our laws, to help us to understand how to move forward and deal with each of these areas. My gosh, we should be having a bill on every single one of these issues that I've just listed. Thank you, Mr. President. [LB948]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Chambers, you're recognized to close on your bracket motion. [LB948]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I'm going to go ahead and read a little bit more for you to improve your education. This is from Bloomberg press. "Trump May Be Deposed in 'Apprentice' Groping Lawsuit." "Manhattan state court judge says 'no one is above the law.'" "Ruling adds to Stormy Daniels controversy over hush payment." President Donald Trump cannot avoid a former "Apprentice" contestant's defamation lawsuit and may be forced to respond under oath to allegations of sexual assault and his treatment of women. Summer Zervos, a contender to "The Apprentice," on "The Apprentice" in 2005, sued Trump in January 2017 alleging she (sic--he) "ambushed" her on more than one occasion starting in 2007, kissing her, touching her breast, and pressing his genitals against her. The article said genitals, Mock (phonetic) or whatever his name is. "On Tuesday, New York State Supreme Court Justice Jennifer Schecter denied the President's request to throw out the lawsuit or delay it until he leaves office." Now if my resolution is acted on, he may leave office pretty quickly and we won't have to wait too long. "'No one is above the law,' Schecter wrote in an 18-page decision. 'Nothing in the Supremacy Clause of the United States Constitution even suggests that the President cannot be called to account before a state court for wrongful conduct that bears no relationship to any federal executive responsibility.'" He tried to have it thrown out on the basis of the Supremacy Clause. He's nuts. Continuing, "The ruling could subject Trump to extremely broad questions about this case and similar ones, and he might be forced to testify under oath and provide documents, said Naomi Mezey," M-e-z-e-y, "a professor at Georgetown Law School and an expert on civil procedure. Zervos has already asked for Trump campaign documents concerning 'any woman alleging that Donald J. Trump touched her inappropriately.'" I'll hurry right along: The decision may also complicate Trump's effort to dismiss allegations from the various women about his behavior. "Trump is separately embroiled in a scandal involving a \$130,000 payment to an adult film actress--Stephanie Clifford, who performed under the name Stormy Daniels--who alleges he's attempting to prevent her from discussing a sexual relationship she had with him in 2006. Her interview on '60 Minutes' is scheduled to air March 25." I will stop reading that and make a comment or two. This man said he had nothing to do with Stormy Daniels, yet he, his lawyer is trying to have her lawsuit dismissed. Well, why is his lawyer trying to have her lawsuit dismissed when Trump had nothing to do with it and he's alleging she's in violation of an agreement that she was paid hush money for? Let the woman talk. Let us all hear

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it and make a judgment. We've made a judgment already. The public knows. And your Governor is following Trump and they have a stooge back here named Mor-ron-tay (phonetically) who is carrying the ball for the Governor and he's already got the "Repelican" hierarchy going for him. All he is, is a...I'll say a puppet. I'll be nice. The... [LB948]

PRESIDENT FOLEY: One minute. [LB948]

SENATOR CHAMBERS: ...Republican Party is Edgar Bergen, Senator Murante is Charlie McCarthy. I don't want to just go after the puppet. I want to go after the puppeteer. But the puppet is all that we have here, and he is a puppet. Senator Thibodeau is not here. He tricked her into doing this. She could have stood up and said, that's not so. She spoke about a guy threatening her about a bill. So she could have said, well, Senator Chambers, that's wrong, I knew exactly what I was doing. She's...you know where she is right now? She's putting shampoo in her hair and she's thinking about Murante: I'm going to wash that man right out of my hair. And that's what we're confronting here. I do get energized. But as sorry as I am, (singing) now is the hour when we must say good night. [LB948]

PRESIDENT FOLEY: Time. [LB948]

SENATOR CHAMBERS: Mr. President, I withdraw that motion. [LB948]

PRESIDENT FOLEY: Bracket motion has been withdrawn. Takes us back to consideration of AM2473. Senator Harr, you're recognized to close on AM2473. Mr. Speaker. [LB948]

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. We have reached the two hours I was trying to get to today, so we will move to adjournment at this time and we'll take up the budget in the morning and move on to the agenda tomorrow. Thank you. [LB948]

PRESIDENT FOLEY: Thank you, Mr. Speaker. Items for the record, please? [LB948]

ASSISTANT CLERK: Mr. President, amendments from Senator Harr to LB948. And a new resolution, LR356, introduced by Senator Brasch; that will be laid over. (Legislative Journal pages 1049-1050.) [LB948 LR356]

Finally, a priority motion: Senator Ebke would move to adjourn until Wednesday morning, March 21, at 9:00 a.m.

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