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Floor Debate
March 26, 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-ninth day of the One Hundred Fifth Legislature, Second Session. Our chaplain for today is Pastor Adam DeMike of the Faith Missionary Church in Weeping Water, Nebraska, Senator Clements' district. Please rise.

PASTOR DeMIKE: (Prayer offered.)

PRESIDENT FOLEY: Thank you, Pastor DeMike. I call to order the forty-ninth 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. Any corrections for the Journal?

CLERK: I have no corrections.

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

CLERK: Mr. President, a new A bill, LB947A by Senator Smith. (Read LB947A by title for the first time.) And, Mr. President, Senator Brasch would move to place LB1069 on General File pursuant to Rule 3, Section 20(b). That will be laid over. That's all that I have, Mr. President. (Legislative Journal page 1143.) [LB947A LB1069]

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 LR351. (Doctor of the day introduced.) Senator Stinner, for what purpose do you rise? [LR351]

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SENATOR STINNER: A point of personal privilege.

PRESIDENT FOLEY: Please proceed.

SENATOR STINNER: I thought maybe before we started the week, before we started the day, we should spend just a little bit of time reflecting back on Friday. Friday, DHHS, in conjunction with the Attorney General's Office, petitioned 19 counties to place 21 nursing homes and 10 assisted-living facilities under receivership. You know, I kind of reflect back on my orientation days and something that always stuck with me is one of our duties, one of our responsibilities, is to look out for the well-being and safety of our fellow Nebraskans. An estimated 2,000 patients are affected by this; 1,678 employees went without pay for two to three weeks and will not get paid unless they move forward...they'll get paid forward, but not backward. So, two to three weeks of no pay, how many people in here can go without pay for two to three weeks? But the fact of the matter is that DHHS, first of all, did a great job in this process. They are...Courtney Phillips and her crew did outstanding work. But the other fact of the matter is that there is no money in DHHS. We have taken money out. We have lapsed money. We have strategically taken money out of DHHS. There is a little bit of Medicaid supplement money that could possibly go for this receivership. Now a guardian is put in place, so hopefully that guardian then collects funds and carries on and hopefully we can place these 2,000 patients. But are you going to find, are you going to open a facility in Wausa or Franklin County? Small facilities, not profitable, are those towns going to take them over like Mitchell did, like Bayard, like Wauneta? That's the alternative. Folks, this is a failed business model in rural Nebraska. They have to take everybody that comes along. They're highly dependent upon Medicaid. And our provider rates, I've talked about provider rates and talked about provider rates. We hold nursing homes static. And I talked about and talked about outcomes, measuring outcomes, looking at the total financial impact of what our decisions are. The fact of the matter is costs continue to accelerate. The fact of the matter is there is government regulation, there are standards that they have to comply with. These are important in our demographic. Overall demographic in the state of Nebraska is an aging demographic. So this is something I think the future Legislatures need to take a look at and you need to spend time when you're in this off season afterward, spend time talking to your nursing homes and your DD providers and your mental health folks and find out what...ask them, what's your revenue look like, what's it consist of? Right now, 56 percent, 56 percent of the dollars in nursing homes in our state is provided by Medicaid. Medicaid does not cover all cost of service. Very few people now have private pay. That's what basically carries a lot of these nursing homes. In rural Nebraska, if the town doesn't own it, if the hospital doesn't take it over, if it isn't subsidized in rural Nebraska, it doesn't...it won't exist. It may exist today but it won't exist long term. It's a very low-margin business that the demographics really are shifting more towards state financing. So anyhow, I would urge you when you go back to your districts, spend time, talk about what that revenue stream looks like, what the consistency is, what the trends are, what's your work force look like and what the cost of that work force is and are they even

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available. That's the other problem we have in rural Nebraska. That work force that we have to comply with, as far as regulations, as far as staying open, as far as providing a standard of care, really isn't there. So talk to them about that cost. Talk to them about their cost structure and it will vary between nursing homes depending on who's there and what type of illnesses they have, long-term illnesses, Alzheimer's, those types of things. It will vary and they get reimbursed accordingly. But ask those questions. Spend time with your DD providers. Do an in-house visit. Find out how important the services are that they provide. Provider rates haven't been touched this session--that's why I haven't talked very much about it--but it definitely was last session. If you remember, we did have a veto override. We didn't get the override, but it dealt with provider rates and the importance of providing the appropriate amount of revenue back to providers. It's something we need to put on our agenda. It's something we need to look at. And there is a sense of urgency, believe me, on these nursing homes. Thank you.

PRESIDENT FOLEY: Thank you, Senator Stinner. We'll now proceed to the agenda, General File, appropriations bills. Mr. Clerk.

CLERK: Mr. President, LB990A is by Senator Wayne. (Read title.) [LB990A]

PRESIDENT FOLEY: Senator Wayne, you're recognized to open on LB990A. [LB990A]

SENATOR WAYNE: Thank you, Mr. President. This bill is a simple bill that requires cash funds to do a one-time programming charge to the justice system for LB990. I would ask for your green vote. However, since Senator Stinner's announcement, I just want to remind this body that last year we held DD provider rates flat, which is actually a negative without inflation. We did account for that and actually provider rates have not gone up significantly, if at all, in a long time. So while we debate the budget later on this week, hopefully, let's just be reminded that this is an area that we talked about, that I stood up on the floor and others stood up on the floor to talk about, that some of the issues that might happen is businesses might start closing. I'm not saying that we were 100 percent the cause of it, but let's just make sure we keep that in mind as we move forward. As it relates to my bill, please vote green. [LB990A LB990]

PRESIDENT FOLEY: Thank you, Senator Wayne. Debate is now open on LB990A. Senator Chambers. [LB990A]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, the underlying bill has moved. I'm not going to take a lot of time on the A bill; in fact, I may not take any time at all other than to say that I'll vote against it because the direction that LB990 is going, I think, is off the mark. It's not an evil bill. It just doesn't have the proper focus, in my opinion. And when we get to it on Select, that's when I will talk. I didn't want to do this on a point of personal

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privilege, but I saw something that was very disturbing to me which indicates, once again, how you all are not attentive. I read where the Lieutenant Governor is going to appear with Tom Osborne in a rally for a person running against Senator Ebke. Now when the Governor's person is going to sit up there and has already declared himself politically on the side of somebody running against a member of the Legislature, I can't get him out of there. I can't oust him. If I could, I would. If he had any decency, he would leave. But the Governor is going to show you all how he'll put it in your face, rub it in your face, and make you like it, which is what this supine, weak, worthless Legislature is doing. I ought to just go ahead and try to destroy the rest of the session because we have no dignity, we have no integrity. And I'll tell you what, if I was running and the Lieutenant Governor came out against me, he wouldn't be sitting up there because I would disrupt everything going on, on the floor. But Senator Ebke is not that kind of person, nobody on this floor is, and perhaps under those circumstances I wouldn't actually do it for the whole session. But I could not let the Governor put me in that position. I used to respect Senator Foley. Notice I said "Senator." I didn't agree with his politics, but he was a man, I felt, of integrity. I don't think he has any integrity at all. I don't think he has any self-respect. He has let the Governor degrade, debase, demean him, and turn him into a sycophant, a lapdog. And if you all think this is harsh, you're out of your mind. Come up here and make me stop. This is one of the most serious things that I have seen while I'm in the Legislature. It totally breaches the line of separation between the Governor's Office and the Legislature. But the Governor is showing you how much he controls you. And if Governor can control you, then "Governor Junior" can do the same thing. Now I hope that somebody will tell me that the information I read in the paper is incorrect. And I bet nobody else on this floor will stand up, nobody. I heard Senator Stinner. I heard the Speaker last week. You all are worried about things that are tangential to what is really important, in my opinion. But obviously people don't share my opinion. It's a one-man band. But I've said over and over and over that the Legislature as an institution must be protected. And you all are going to see I'm not a coward and I'm not afraid of anything and anybody and I'll confront the issue head on and I'll say it to the face of the person I'm talking about. I won't be whispering behind his back, throwing a rock and hiding my hand, whining in these little corners and these little places where you all skulk and whine to each other. I wonder why the Speaker will not say something. He can talk to the Governor, tell him don't send him over here when he has come out publicly against a member of the Legislature. And you know what the Governor will tell the Speaker? You run over there, you run your little shop, and I'll run the state, I am king. [LB990A LB990]

PRESIDENT FOLEY: One minute. [LB990A]

SENATOR CHAMBERS: Well, there is one subject who is not going to swallow spit and be walked on. It's a white Legislature. I should not even speak for it. I should let these people do anything they want to, to you, then stand back and mock and taunt and ridicule you. I'm surprised there has not been an editorial. They editorialized against me when I said that ISIS, the

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police are our ISIS. All these white editorialists were up in arms. Many senators were up in arms. And what I said didn't even involve the Legislature. But they could gang me because they're afraid to take me on, one on one. But I expect it. I expected that when I came here and I was not disappointed. And I'm prepared when I enter a battle to fight till the very end. Does that mean I'll always prevail? [LB990A]

PRESIDENT FOLEY: Senator Chambers,... [LB990A]

SENATOR CHAMBERS: Thank you, Mr. President. [LB990A]

PRESIDENT FOLEY: ...you may continue on your second opportunity. [LB990A]

SENATOR CHAMBERS: Thank you. Members of the Legislature, I'm going to talk today about a number of issues that may not pertain specifically to the bill that is before us. Abraham Lincoln said something like that about this great struggle before us, "whether that nation or any nation so conceived and so dedicated can long endure." Now he would say we're involved in a great civil war. That was a prelude to him making those comments that I just gave. "Now we are engaged in a great civil war, testing whether that nation or any nation so conceived and so dedicated can long endure." He was talking about the Union, "fourscore and seven years ago" from the time he was speaking. His white forefathers brought forth a new white nation "dedicated to the proposition that all men," except black men, "are created equal," "that they are endowed by their" white "Creator with certain unalienable Rights," among these, "Life, Liberty and the pursuit of Happiness." Sometimes I mix various documents and comments because to the careless listener they all sound as though they're from one piece of cloth and people are not aware that you've gone from one and interpolated something else. I do wonder, as I've said on occasion, what in the world am I doing here? Why do I come here? Every day of the session, every day when we're not in session, except weekends and sometimes on weekends, why? Because there is something in me that guides me. I don't say it drives me. That's crazy. Nothing and nobody drives me. I drive a car. People drive oxen. Nobody drives me. Nothing drives me. But I commune with myself and myself and I have these conversations. What it is that I want to be regardless of what anybody else may think, regardless of what anybody may say? And what I want to be transcends anything that I could become by being a member of this Legislature. But this Legislature is a step along the way because it offers the wherewithal to help the people that I think need help the most. And if I'm going to engage in action that is futile, action that cannot possibly bring the results that I want, I at least want to be in a forum where the means are there if they could be marshaled, if they could be directed, and if those who have the control could be prevailed on to do what is right. And this Legislature is such a place. I understand that yesterday was Palm Sunday. Yesterday was Palm Sunday. That's when Jesus came into Jerusalem on a jackass and the people were laying these palm leaves in front of him, like you all do when you

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come here and pray every morning. Every morning is your Palm Sunday. Then what happened to him a few days later? The ones who were out there saying, "Hosanna, hosanna," were shouting, "Crucify him, crucify him," because the religious leaders directed them to do so. [LB990A]

PRESIDENT FOLEY: One minute. [LB990A]

SENATOR CHAMBERS: And they did it. So you all have your Palm Sunday every morning, then the rest of the day is your crucifixion time because you walk exactly contrary to everything that Jesus you claim to worship told you, you ought to do. And that is a metaphor for all you so-called Christians: Palm Sunday this week, crucifixion next week. You pray every morning, then you never do what we could do to answer what you ask God to do. We have that power and you refuse to use it. You have these preachers running around here. In fact, there's a preacher that Senator Foley and Governor, whatever his name is, is talking about doing, Governor "Trumpite," a preacher who is as backward as a jackass with his head on the tail end, and Senator Foley is going out to support him. They hate Senator Ebke... [LB990A]

PRESIDENT FOLEY: Time, Senator Chambers. [LB990A]

SENATOR CHAMBERS: You said time? [LB990A]

PRESIDENT FOLEY: You may continue on your third opportunity. [LB990A]

SENATOR CHAMBERS: Thank you. They hate Senator Ebke so much that they've come out publicly against her for some jack-legged, idiotic, ignorant preacher. And you know why I say that? Because he used to come before the Legislature, dumb as a post, but anything is better than Senator Ebke. And you all must agree. You all are going to stay here and let that man sit up there today presiding over you. He doesn't have any respect for you. Why should I? He's saying you're a bunch of fools. I'll say it too. You all are a bunch of fools. He says you have no pride, no professional pride. That's what I say. You have no pride. You have no professional pride. I'm going to be an echo of the Governor this morning. I'm going to be the megaphone to magnify his voice. You people, said the Governor, are worthy of contempt. You're not even worthy of contempt. You're beneath contempt. You people are not...you people are worthy of contempt. You're not even worthy of contempt. You're beneath contempt. You're contemptible. What do you see when you look in the mirror? You going to stand up here and puff out your little chest, pontificate about all you're going to do, you're going to solve the problems, and you've got a man sitting up there who is campaigning against one of your own number. You think you could walk in the Governor's room and do anything? He wouldn't let you in the door. Look at you. Quiet as mice. You know what you all are? You're mice studying to be rats. That's what you are: mice studying to be rats. But even the rats have a higher standard. Rat will not allow an alien, not even

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an alien rat to come in their midst and survive. Why should the Governor respect you? He shouldn't. You know why I tell you you're bootlickers? Because I can see the polish around your lips, the Governor's boot polish around your lips. I'm going to listen and every time somebody stands up here and talks about tax anything, I'm going to stand up and say something about the fact that you have somebody in your midst who has total and utter contempt for this institution. Where is the line of separation? Where? Where is your pride? What does it take to stir you up into a star of manhood and womanhood? I don't expect Senator Clements or Senator Thibodeau to do anything because they were appointed by the Governor. I expect if they're really senators they would do something, but they can get a pass. The rest of you all, some of you all he campaigned against, and you're afraid because he might do it again. I wish he and these white people would campaign against me. I've always challenged them and I promised them I would not raise money, I would not put out signs, I wouldn't do anything, come into my community and do your worst, and they were afraid to come into that community because they know what respect the people in my community have and that it would be a matter of me coming to their aid so that somebody wouldn't tear them limb from limb. Look at you, quiet as mice, especially those who call themselves conservative. What are you conserving? What are you maintaining? What are you protecting? What is the bedrock principle of this state and the federal government? Three branches of government, co-equal, supposedly and theoretically, and one is not to exercise the powers of the other unless specifically authorized to do so by the constitution. [LB990A]

PRESIDENT FOLEY: One minute. [LB990A]

SENATOR CHAMBERS: And they send somebody into your house. You talk about you want these guns so you can stop people from invading your house. This is your house. Maybe it's not. Maybe you're down on it because it's called the Chambers and by letting somebody defame, demean, degrade this room, which carries the term Chambers, you think that's happening to me. I'm better than all of you based on your lack of willingness to stand. I don't know what you all talk about when you're with each other, but you certainly don't talk about pride and self-respect. Thank you, Mr. President. [LB990A]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Wayne, you're recognized to close on LB990A. He waives closing. The question before the body is the advance of LB990A to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB990A]

CLERK: 27 ayes, 1 nay on the advancement of LB990A. [LB990A]

PRESIDENT FOLEY: LB990A advances. Moving now to Select File, first bill is LB993A. Mr. Clerk. [LB990A LB993A]

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CLERK: Mr. President, Senator Ebke, LB993A. I have no amendments to the bill. [LB993A]

PRESIDENT FOLEY: Senator Ebke for a motion. [LB993A]

SENATOR EBKE: Thank you, Mr. President. I move the advancement of LB993A to E&R for engrossing. [LB993A]

PRESIDENT FOLEY: There's a motion on the floor. Senator Chambers, you're recognized. [LB993A]

SENATOR CHAMBERS: LB993A. I'd like to ask Senator Ebke a question. Senator Ebke, is this Senator Friesen's bill? [LB993A]

SENATOR EBKE: It is. [LB993A]

SENATOR CHAMBERS: And I'm curious to why you would make the motion. [LB993A]

SENATOR EBKE: Because Senator Wishart is absent and I was asked to step in. [LB993A]

SENATOR CHAMBERS: And that's pursuant to the way we do things in the Legislature? [LB993A]

SENATOR EBKE: It is. [LB993A]

SENATOR CHAMBERS: Thank you. I thought so. But you know why I had to check? Because there was another way I thought we do things in the Legislature. I thought we would protect the dignity and integrity of this body. So we are careful in the little things and we overlook the big things. Jesus in another context said to the hypocrites, take the mote, or the tiny little thing that you're looking at in your brother's eye, lay that aside, you've got a beam, a beam that is a weight-supporting element that can hold the weight of a ceiling, that's what you have in your eye. So before you essay to remove the mote which is scarcely detectable from your brother's eye, take the beam out of your own eye. Jesus even talked about how these hypocrites paid tithes. That's where you pay 10 percent of what you earn into the church so that there might be meat in God's house. That went way back to the ancient times. Jesus had talked about they pay tithes on the smallest little herb, all of the ritualistic things they observe, easily done, but when it comes to justice, when it comes to mercy, when it comes to lifting the burden off the widow, helping to provide shelter and sustenance to the orphans, those things you turn away from and you will not

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do. I applaud Senator Ebke for stepping into the breach to help see that our processes move smoothly this morning and in an orderly fashion. See, I can do two things at the same time. I can talk about how the Legislature as an institution is being demeaned and degraded and also be aware of the small things that have to be done to keep it functioning. I'm going to show you how two other things I can do at the same time. I can pop my right finger, pop my left finger, then I can pop them both at the same time. Then I can alternate them while talking all of the...at the same time. You all have a genius among your midst and don't even know it, and I'm even moving from side to side in some kind of rhythm, and you all, you all cannot see what is before you. This Legislature is not worthy of respect, but I still will play by the rules because if you disrespect your mama, it doesn't mean I'll disrespect my mother. Because you disrespect everything you say you believe in, does not mean... [LB993A]

PRESIDENT FOLEY: One minute. [LB993A]

SENATOR CHAMBERS: ...I'll toss aside those things that I believe in. In other words, for me, you're not a paradigm, you're not an example, you're not the one who by your conduct demonstrates the way that a person ought to comport himself or herself. One thing that revolutionaries understand and realize, those who have conducted successful or even moderately successful revolutions. [LB993A]

PRESIDENT FOLEY: Thank you, Senator Chambers. You may continue on your second opportunity. [LB993A]

SENATOR CHAMBERS: When Castro was overthrowing Batista, a very corrupt individual who had been propped up by the Christian Democratic Republic of the United States of America, gambling corruption, bribes, stealing from the people, George Raft, all those people, loved to go to Cuba and gamble, mess over the women, disrespect the people, as white Americans do wherever they go. And Castro, who was from a wealthy family, did not like that. He had a friend, "Che" Guevara, who was not even a Cuban-born individual, at his right side and Che became an icon throughout the world for all people who are trying to overthrow oppression, because he laid aside his profession of being a medical doctor to participate in a bloody, violent revolution. He did not sit back behind the lines and draw charts and make marks on them, as white leaders of revolutions do. There could not be a battle waging without Che being in the forefront. He was so unmindful of his own safety, yet his intelligence, his ability to strategize was so important to the revolution, that they had to restrain him. They had to restrain him. When they went into the mountainous areas, people became aware that something was going on. Castro and Che and the other people would ask the farmers to give them sustenance. They never took it by force from anybody. That's why they were so popular. They made a note of everything that every farmer gave them and when the revolution was successful, every farmer who had given them anything

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had it restored with interest. That's why Castro could go, as he said, while being condemned by the people in America for being a tyrant. He said, I can go anywhere in Cuba in a T-shirt and the President of the United States cannot drive through Harlem in a bullet-proof vehicle. In other words, Castro was a man of the people. That's why, despite efforts by the CIA, the racist white people, the "Uncle Tom/Aunt Jemima" Cubans who had gone over to the other side, were not able to dislodge him. He stayed in charge of that country until he became aware of the fact that he was too old and too infirm to carry on. But do you know what impressed the people in Cuba so much and what impressed Che's compatriots? He led by his example. He recognized the importance of an example and he gave that example. After Cuba's revolution was successful, Che left and he went to another country. I'm not going to give you the name. You can...naturally it's a country in that part of the world. You can look it up. You can do it in Google. He was ambushed and killed. There were people in Cuba and around the world who did not want to believe it, but Castro told them that Che was a man where the example was everything. We do not set a good example by... [LB993A]

PRESIDENT FOLEY: One minute. You have one minute, Senator. [LB993A]

SENATOR CHAMBERS: Oh. We do not set a good example by showing the world that we are unable to accept reality when we know what that reality is. Che is no longer with us. Che is dead. It is not a surprise that he would die. And one of the things that convinced Castro more than anything else that Che died, was because it was in a battle, a few of the insurgents against the government troops, and that few would not retreat, they would not run, and that was Che's hallmark. He chose to die rather than give ground. And by not giving ground, he gave his life, but he also gave to all revolutionaries for all time an example. Thank you, Mr. President. [LB993A]

PRESIDENT FOLEY: Thank you, Senator Chambers. You may continue on your third opportunity. [LB993A]

SENATOR CHAMBERS: Do I think I can lead this body by example? Heavens, no. People on this floor could be dying of thirst and I could tell them, follow me and I will show you a place where there is cool, clear water. And you would refuse. You would die of thirst first. But I would expect that. You cannot be led because you are willfully blind. Your eyes are able to see but you refuse to perceive what you see. That's why Jesus said: Let he that hath ears to hear, let that person hear, let the person who has eyes to see, see. You all can see. You all can hear. You are aware of everything that I am aware of, generally speaking. And one thing every one of you should be aware of if you're not, whether it's the Chief Justice, whether it's the Governor, this Legislative Chamber should be sacrosanct. Somebody who has shown such disrespect as has been shown by the Lieutenant Governor should not be welcome here, should not be welcome

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here. But what do you all do? He could hurl feces at you, sick on your face, you wouldn't wipe it off. He could spit in your face and you'd not do anything. How can you expect anybody to respect you? This is the kind of thing that wouldn't happen in the street. There are people who kill other people because, there's a word they use, that person "dissed" them, that person disrespected a person and, for that, lost his life, which is stupid. You don't kill somebody for something as simpleminded as that. How can you be disrespected when you have no respect for yourself? But the gun talks to people and that's why these white people want guns everywhere, because it shields them from their cowardice. The gun talks to them, so they go into schoolhouses and kill bunches of little white children, and sometimes a black child. But when it comes to children, a child is a child is a child, and your children are dying. And these idiots get you to say guns don't kill people, people kill people. Well, there was a teacher down in Alabama, in one of those backwards states, in a classroom and was teaching children about gun safety and he fired the gun. But you know what the gun nuts said, gun nuts like those of you on this floor? Whereas when somebody kills a person they say it's not the gun that kills, it's the person. You know how the paper wrote it? The gun discharged, not the teacher fired the gun, the gun discharged of its own volition. It chose, therefore, the gun became the actor and the actor's act in the past tense was attributed to the gun, not the holder of the gun,... [LB993A]

PRESIDENT FOLEY: One minute. [LB993A]

SENATOR CHAMBERS: ...not the teacher fired the gun, the gun discharged. There are officers who have shot themselves and you know how it's always described? The officer was removing his gun or handling his gun and the gun discharged. No, guns don't discharge, people shoot, people discharge guns. But it shows you how they manipulate language. Words don't mean anything to you all because your brains are petrified, they grasp what they are told to grasp. If I use profanity, I'd use profanity on the floor this morning, but it's beneath me. Although it might be your regular fare when you speak. I just won't use that kind of language. Not that I'm holy, but there would be settings where it's inappropriate, and since what's in you will come out, I could get very upset in one of those situations where it would be inappropriate,... [LB993A]

PRESIDENT FOLEY: Time, Senator. [LB993A]

SENATOR CHAMBERS: ...but that's the language that would come out. Thank you, Mr. President. [LB993A]

PRESIDENT FOLEY: Thank, Senator Chambers. Members, we're on the Select File motion to advance the bill to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB993A advances. Proceeding to the next bill, LB1090A. Mr. Clerk. [LB993A LB1090A]

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CLERK: Senator, I have no amendments to the bill. [LB1090A]

PRESIDENT FOLEY: Senator Ebke for a motion. [LB1090A]

SENATOR EBKE: Thank you, Mr. President. I move the advancement of LB1090A to E&R for engrossing. [LB1090A]

PRESIDENT FOLEY: It's a debatable motion. Senator Chambers, you're recognized. [LB1090A]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I wonder if Senator Ebke would yield to a question. [LB1090A]

PRESIDENT FOLEY: Senator Ebke, would you yield, please? [LB1090A]

SENATOR EBKE: Yes. [LB1090A]

SENATOR CHAMBERS: I said yield, but I didn't say you have to give an answer. If I ask the same question, I would get the same answer, so it's unnecessary for me to propose the question, but I believe I would get the same answer, correct, Senator? [LB1090A]

SENATOR EBKE: Yes. [LB1090A]

SENATOR CHAMBERS: Thank you. Once again, because the one who customarily makes these motions to move these bills is not here, Senator Ebke stepped into the breach to do it. I'm surprised that Lieutenant Governor didn't object. Why didn't he object? He objects to our being here even. He doesn't even want her to be here. And he's made it clear. When have you ever heard of a Lieutenant Governor, the sidekick of the Governor...Red Rider, had a sidekick, Little Beaver. The Lone Ranger had a sidekick, demeaning all Native Americans, Tonto. He called him Tonto. In Spanish, Tonto which means fool, sidekick of the Lone Ranger, white man. Batman had a sidekick and he may have had a relationship to Robin that the priest had to the little altar boys. Batman's sidekick was Robin. Governor's sidekick, Lieutenant Governor Foley, but he's big enough to handle this whole Legislature. The Governor says, I don't have to go over there. I got a guy with no power whatsoever. Does what I tell him to do. When I say come, he comes, when I say go, he goes. I told him, go over to that Legislature and disrespect them and he came and he's doing it. I have to give him credit for that. But that reminds me of another Bible story and since I'm just talking this morning, and I know there are people who watch, they will wonder, why it is that I'm the moralizer and you all are not, because you all are the Christians and I don't have a

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Christian corpuscle in my body. I don't have an atom of religion in my body. Jesus was known to heal people. I don't believe in that kind of thing. But it probably happened in those days like a lot of other things happened, like a guy could be swallowed by a fish and stay alive inside of him for three days, which was supposed to foretell what happened to Jesus. But in the New Testament...and I'm not going to forget where I'm going. I might ramble, but I never forget where I am and where I was going. Jesus was supposed to be three days and three nights in the heart of the earth. They could not count. He was crucified on Friday. That's one. We'll give him a day. He was in the ground Friday night. That's one night. He was in the ground Saturday. He was in the ground Saturday night. That's two days and two nights. Right? When did he get up? According to their myth, Sunday morning. He was not in the ground three days and three nights even though the Bible talked about that. That's why I don't believe it. And that's why Gershwin in Porgy and Bess had somebody to sing, (singing) it ain't necessarily so. It ain't necessarily so. The things that you're liable to read in the Bible, they ain't necessarily so. So that's one lie. So they could have lied about Jesus healing people. [LB1090A]

PRESIDENT FOLEY: One minute. [LB1090A]

SENATOR CHAMBERS: But at any rate, that was the story. Rome had soldiers. They were called centurions. I don't know if that's a play on the word century, one of 100, but that's what they were called. And there was a centurion in those days who had a servant who was sick. And Jesus, the itinerant preacher, was supposed to have magical powers, and I'll continue when I'm recognized. Thank you, Mr. President. [LB1090A]

PRESIDENT FOLEY: Thank you, Senator Chambers. You may continue on your second opportunity. [LB1090A]

SENATOR CHAMBERS: Thank you. This Jesus had magical powers. So the centurion saw him. Centurion was going to ask him for something. So all those...the centurion had power over Jesus because he was a military man. He was under arms. He probably had some buddies with him, but because he was going to ask a favor, he respectfully stood at a respectful distance. And when Jesus was not otherwise occupied, the centurion approached him. He said, I've heard about you, and you are able to heal people. You don't place any prior conditions that I'm aware of, so here's what I want. I have a sick servant, and I want you to heal him. So Jesus had a beard like mine, but it was longer because Jesus was a Nazarene. That meant no blade should touch the hair on his head or his face, so Jesus probably had a chin longer than Fu Manchu's, but anyway, Jesus stroked his beard and looked the centurion over, and the centurion did not flinch. The centurion did not lower his eyes. The centurion had that steady gaze of a man who knew what he wanted and knew he had come to the place to get it and were expected to get it. So when Jesus finished his appraisal, Jesus said, okay, take me to your servant and we'll see what happens. And the

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centurion said, no, that's not necessary. Waggled a finger in the face of Jesus and told the Son of God that's not necessary, partner. All you have to do is speak the word. You have power. I am a man with power. I say to this one, come and he comes. I say to that one, go and he goes. So you just give the word and my servant will be healed. And as they say quaintly in the Bible, Jesus marveled at the man's faith, and the man's servant was healed. Why did I say that? Because I made the comment that the Governor says, come and you come, go and you go. And he also said it to Senator Foley. When I say go, he goes. When I say come, he comes. There was a time when he used to didn't do that. But he is like one of these rambunctious broncos or one of these little wild stallions. And you get on his back and he'd jump and kick and try to bite you and get you off his back. That was Foley. Foley, the man. Ecce homo, behold the man. That's what Pilate said when he wanted to call the people's attention to Jesus. Behold the man. The man. Not the criminal, not the fool, not the deluded one, not the troublemaker, not the one who hates Caesar, but you religious people want to tell me to say and go by, he is a man, which no male out here, not a male among you qualifies as a man. You see I have spies. There was a big strong, husky one named Peter, the rock. They called him Rocky and Rocky crumbled, crumbled like a piece of dry bread and denied him. Judas was dead when all this happened, but Judas betrayed him. Then had the decency... [LB1090A]

PRESIDENT FOLEY: One minute. [LB1090A]

SENATOR CHAMBERS: ...at least to go hang himself. Then what did the rest of his buddies do? They fled. It's like I took a stone and threw it into a covey of quails and they all took off and now here he stands by himself. So I tell all of you males, behold the man, which is something none of you ever will be. That was Senator Foley. I could say we disagree, very strongly, but he's a man, and nothing is so tragic as one who was a man to be stripped of his manhood and converted into an eunuch. A eunuch was one who tended the women... [LB1090A]

PRESIDENT FOLEY: Time, Senator. [LB1090A]

SENATOR CHAMBERS: Thank you, Mr. President. [LB1090A]

PRESIDENT FOLEY: You may continue on your third opportunity. [LB1090A]

SENATOR CHAMBERS: The eunuch was the one who tended the women for a potentate. He couldn't do anything to the women. They had made sure of that. So when I see Senator Foley, I see a walking, talking, breathing tragedy. Were I Shakespeare, I would write a one-act, one-scene play, and it would not be the little man who wasn't there. You know who the little man who wasn't there, you know what they say about him? As I was walking up the stair, I met a man who wasn't there. He wasn't there again today. I wish to God he'd go away. He wouldn't be the little

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man who wasn't there. He wouldn't be the man who never was. He'd be the man who once was a man, but holds that status no longer. And nobody took his manhood. He voluntarily relinquished it. Nobody put a gun to his head and said, your manhood or your child's life. He voluntarily relinquished his manhood. What was he given? Jesus said...Jesus said, what doth it profit a man to gain the whole world and lose his soul? And Senator Foley used to go across the street to church. He knows about everything that I'm saying. Probably knows more than I know. So here's what Jesus would say to him. Senator Foley, what doth it profit a man to lose his soul, to gain the whole world and lose his soul, but a seat in the front of the Legislature? Is that what you will lose your soul for? And Senator Foley was smitten in his spirit as was Peter when Jesus told Peter he would deny him three times and the third time the cock crowed and Jesus looked at Peter, didn't say a word just looked at him, and Peter's own conscience smote him, and Peter went out and wept bitterly. I'm not Jesus. Wouldn't want to be. Why would I want somebody to hang me up on a tree when that's what they did to my ancestors? I didn't like it then. I wouldn't like it now. But I will look at Senator Foley, the man who once was a man, but is no longer. And when he leaves here, he ought to go weep bitterly. But maybe I was mistaken. Maybe he never was what I thought he was. Maybe he always was what he shows himself to be now, and I have a confession to make. I totally misjudged another human being. I thought that it was true that you'll know a tree by the fruit it bears. I knew he was a tree. He stood tall. He stood straight. But I made a mistake. What he bore was not the fruit of manhood. It was the fruit of chicanery, trickery, deception, sleight of hand... [LB1090A]

PRESIDENT FOLEY: One minute. [LB1090A]

SENATOR CHAMBERS: ...and I will tell you all something. I don't have a heart. I don't have tear ducts, but if I had a heart, nothing would break my heart so completely and thoroughly as to see a man who once was a man but is no more. Nothing could draw the tears from my eyes if I was capable of being a weepy, teary person than to see that tragedy unfold before my very eyes. I regret it more than Senator Foley, because Senator Foley knew what he was all the time. He knew. So he and the Governor can put something in a glass and toast each other and say, that Chambers thought he could read people, thought he could divine what's in a person's heart, but he was wrong. [LB1090A]

PRESIDENT FOLEY: Time, Senator. Senator Chambers, you've already been recognized three times. Members, you heard the Select File motion to advance LB1090A to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB1090A advances. We'll proceed to the next item on the agenda, General File, 2018 committee priority bills. Mr. Clerk. [LB1090A]

CLERK: Mr. President, LB1008 is a bill by Senator Bostelman relating to game law. It changes amounts of certain liquidated damages. It was introduced in January, referred to National

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Resources. Senator Bostelman presented his bill last week, Mr. President. The committee amendments were offered. There was a division of the committee amendments. There are two components of the committee amendments. When the Legislature left the issue, pending was committee amendment AM2564, Mr. President. (Legislative Journal page 1090.) [LB1008]

PRESIDENT FOLEY: Senator Bostelman, you were on the floor last week with this bill. Why don't you take a minute or two to refresh us on where we are. [LB1008]

SENATOR BOSTELMAN: Thank you, Mr. President. Good morning, Nebraska. Good morning, colleagues. My bill is LB1008, a Natural Resources Committee priority bill. LB1008 increases...it amends Section 37-613 to increase the amounts of liquidated damages for certain violations of game law. What it does, it puts Nebraska in line with other states' liquidated damage provisions for wildlife violation and sends a strong message that such wildlife violations will not be tolerated by the state...or in the state. This is a positive step forward protecting our natural resources. And LB1008 is the vehicle advanced out of the Natural Resources Committee for several bills. Those were...there's a handout that you have that was handed out last week titled AM2292 to LB1008 by Senator Hughes, district number 44, which explains each of the amendments that's part of this committee bill. I urge your support for the amendments. A green vote on the amendments as well as the advancement of LB1008. Thank you, Mr. President. [LB1008]

PRESIDENT FOLEY: Thank you, Senator Bostelman. Senator Hughes, you have a Natural Resources Committee amendment pending. Why don't you refresh us on that, if you would, please. [LB1008]

SENATOR HUGHES: Thank you, Mr. President. Good morning, colleagues. This amendment was introduced in response to the Nebraska Supreme Court case Aksamit Resource Management v. Nebraska Public Power, 299 Neb. 114. That was issued on Friday, February 23, 2018. The case involved the potential competitor of a public power entity in Nebraska who was denied a request for records showing cost and revenue information, the rate outlooks for each of the entities...for the rate outlooks of each of the entities generation facilities. The potential competitor sued. The district court ruled that the records should not be provided because the exclusion in the public records statute, 84-712.05(3) was proprietary and commercial information which, if released, would give an advantage to competitors. The state Supreme Court reversed the lower court holding that the last part of 84-712.05(3), which states the public records are excluded, which if released would give an advantage to business competitors and serve no public purpose. The court found that the public entity...public power entity did not prove that the release of information would serve no public purpose. The court liberally construed the meaning of "public purpose" and that absence of a statute clarifying the competing

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policy interest should be balanced, a policy debate on fossil and renewable fuels was serving a public purpose. Thank you, Mr. President. [LB1008]

PRESIDENT FOLEY: Thank you, Senator Hughes. Mr Clerk. [LB1008]

CLERK: Mr. President, Senator Brewer would move to amend this component of the committee amendments with AM2609. (Legislative Journal page 1100.) [LB1008]

PRESIDENT FOLEY: Senator Brewer, you're recognized to open on AM2609. [LB1008]

SENATOR BREWER: Thank you, Mr. President. Good morning, colleagues. AM2609 is what's left of my priority bill. That bill was a combination of two year's ago as LB504, this year's LB1054. What happened is over a number of weeks of attempts to push LB1054 through, modifying it four different times to satisfy some of those on the committee, through all those efforts at no point was I able to convince the committee to allow that bill, LB1054, my priority bill to come out of committee. As a result of the opposition, again, stressing to everyone that I am in support of LB1008. I believe that Senator Bostelman's bill is a good bill, is part of why I went through the process to divide the question. But on the other hand, I believe that LB1064 is a bad bill. It takes away the transparency that we need with public power. And AM2609 addresses those issues with power. And this time I'd like to run through some of those. The original bill, LB1054, they said is gone. The amendment replaces it. And it is very simple. It says the counties that want to have wind energy or address power issues need to have a plan or resolution or even an ordinance to address five things. The plan must speak to setback distances. Those would be distances from the wind towers. The plan must speak to the effects on property values of the nonparticipating landowners. The plan must address noise limits. The plan must address impacts on environmental issues and wildlife and the plan must speak to the decommissioning procedures. Keep in mind that there in many counties no rules whatsoever, no boards or committees that address these things. And the decommissioning process for wind towers can be incredibly expensive. Wind companies tend to change hands over and over again. So many of those contracts that are written originally become useless through a process of schemes through attorneys. And the county will be left with that cost for decommissioning. Through the committee process of natural resources, the thing that at least two of the senators that opposed it brought up was the local control issue. I believe that is a falsehood in many ways because this and LB1054...LB1054 said that if you want to build in your county, all you need to do is have rules and a committee established, and if you don't, then it goes through the Power Review Board. But that wasn't acceptable. So then we broke it down as I just addressed here. And remember, there are no values. That becomes the responsibility of the county to determine. No noise levels, no setbacks. It is left to the county to decide all these things. All I'm saying is they must be addressed. This is 100 percent local control. Again, the original bill of LB1008, I

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support and agree with. I think the idea of addressing poaching our wildlife needs to be addressed. My issue again is the opposition to AM2564 and I would ask for your support with AM2569 to address power, wind energy issues in the counties. Thank you, Mr. President. [LB1008]

PRESIDENT FOLEY: Thank you, Senator Brewer. Debate is now open on LB1008, the committee amendment and the amendment to the committee amendment. In the queue are Senator Chambers, Brewer, and Hughes. Senator Chambers. [LB1008]

SENATOR CHAMBERS: Thank you, Mr. President. I would like to ask Senator Brewer a question or two if he would answer. [LB1008]

PRESIDENT FOLEY: Senator Brewer, would you yield to questions, please? [LB1008]

SENATOR BREWER: Yes, sir. [LB1008]

SENATOR CHAMBERS: Senator Brewer, if your amendment is not adopted, will you support LB1008? [LB1008]

SENATOR BREWER: I will not with the amendment. I believe the transparency is too critical. [LB1008]

SENATOR CHAMBERS: Has that amendment that you're referring to that would do away with transparency been actually added to LB1008 yet? I mean, has that amendment been adopted yet to make it a part of LB1008? [LB1008]

SENATOR BREWER: It has not. [LB1008]

SENATOR CHAMBERS: So if the bill, LB1008, remains as it is right now without any amendments having been adopted, you could vote for LB1008? [LB1008]

SENATOR BREWER: Yes, sir. [LB1008]

SENATOR CHAMBERS: Suppose your amendment is not adopted, but Senator Hughes's amendment is adopted, would you then vote for LB1008? [LB1008]

SENATOR BREWER: I could not, sir. [LB1008]

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SENATOR CHAMBERS: Thank you. Members of the Legislature, there you have Senator Brewer's position stated so clearly that even I grasped it the first time I heard it, despite the fact that I had something much heavier on my mind this morning. I'm going to listen to the debate on this matter. It also is something important to the Legislature and the integrity of the body. The word that people often use has been used by Senator Brewer already, transparency. How much of what a governmental agency does should the public have the right to be aware of? The emphasis on the word, public. These agencies do not self-fund. They get money from the public. Should the one who does the footing of the bill have a right to know how those funds are being spent? That issue, as important as it is, to use a cliché now, pales in significance when compared to what I've been talking about this morning. Despite what I've said about Senator Foley, as a person I still like him. I don't know why. The Greeks had a rhyme that dealt with the flip side of that coin. And it was translated into English in the following manner. I do not like thee, Dr. Fell. The reason why, I cannot tell. But this I know, and I know full well, I do not like thee, Dr. Fell. When I worked in the barber shop, that was one of our standard mantras. So when a person came in and he struck everybody the same way, hadn't done anything, all he was guilty of was being, and being there. And if somebody said Dr. Fell, everybody in the shop knew--all the barbers--what that was referring to. I have not seen a similar little rhyme put together where you would like somebody without being able to tell why. With what Senator Foley is in the process of doing, I should not like him at all, but I didn't say respect. I don't respect him. I don't. And I can't. That's why it troubles me so much... [LB1008]

PRESIDENT FOLEY: One minute. [LB1008]

SENATOR CHAMBERS: ...that he's put himself in a position where I can't respect him, but I'll give him credit for this, he sure can take it. But then look how much money he makes. When he was a mere senator he got \$12,000 a year before taxes. No insurance paid for, no pension, but now (singing) he's in the money, he's in the money. And the "Bible" said the love of money is the root of all evil. Not money, because the "Bible" also said money answereth all things. Thank you, Mr. President. [LB1008]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Brewer. [LB1008]

SENATOR BREWER: Thank you, Mr. President. Colleagues, all right, let's get down to the basics. Why do I question public power? Why do I question their ability to all of a sudden have special limitations on the public having access to their records? I'll speak specifically with my experience in my district. If you go back about eight years, the R-LINE was the issue that started the burning heartache of hundreds of people within the district. And as a recap, there were maps handed out, and those maps have a start point of near North Platte, with the...with Sutherland being the point...the starting point and then it going essentially due north into the vicinity of

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Thedford, then making a hard right and ending up in Holt County, its final destination. On that map there was a southern route. It's marked as other route. That takes it south essentially through Broken Bow, Ord, popping out again in Holt County. Now the two major differences between these routes is one cuts a path through the Sandhills where there is very little in the way of existing roads, right-of-ways, anything for them to follow. The east-west route is across virgin Sandhills ground. Now, why is this such a heartache with folks? Well, let's just...let's recap some simple facts of the R-LINE. The 225 mile route, the route that they chose was chosen supposedly because of an ability to have a relay station near Thedford. Now, keep in mind the cost of that relay station is minimal compared to the overall cost of this project and there are existing stations along the southern route. Because there is no corridor that exists on this, what we will call the northern route, obviously the expense of that route is tremendous. \$347 million is the estimated cost, part of the reason I wrote the letter that I did not receive the answers to the questions that I asked for, so keep in mind as you're thinking through this whole process, a senator can request information and not get it. Now, what's going to happen when we give them the ability to hide additional information and have every authority to do that? This route then cuts through the Sandhills. They're selling this route, again, because they're saying that they'll move the heavy steel with helicopters. And again, as I said earlier, I fly helicopters. I understand the cost and the requirements for heavy-lift helicopters. It would require a number of airfields along the way that they're going to have to build because of the amount of time it takes to refuel, move, and come back to refuel point. There are no gas stations/airfields along the way that would allow them to fuel those. They have to build them as they go. Again, tremendous expense, tremendous footprint on the virgin Sandhills, and all unnecessary because they could have taken the southern route. So why did they take the northern route? Why do you want to spend hundreds of millions more taxpayers dollars? That's the root of what started the whole issue of the R-LINE because they wanted to go north to meet private wind energy coming out of the Sandhills. [LB1008]

PRESIDENT FOLEY: One minute. [LB1008]

SENATOR BREWER: So, they moved this route north. Meet wind energy, and then make a hard right and then head for Holt County. Well, part of the thing people understand is that wind energy is going to be brought to them via the right of eminent domain, from private wind. How can anybody justify that? And as all of this is happening, keep in mind, they decided to join the Southern Power Pool. So we have individuals making \$900,000 as a CEO of an organization, who makes a decision to join a Southern Power Pool with no authority from the people, and now they're wanting top cover to protect information from that very same Southern Power Pool that they joined without a vote of the taxpayer. So as they decide to move this line to the east, they decided that they would have a special authority in that they would not have to follow the rules. [LB1008]

PRESIDENT FOLEY: That's time. [LB1008]

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SENATOR BREWER: Thank you. [LB1008]

PRESIDENT FOLEY: Thanks, Senator Brewer. Senator Hughes. [LB1008]

SENATOR HUGHES: Thank you, Mr. President. Good morning, colleagues. I rise in opposition to AM2609 from Senator Brewer. He and I have had many conversations over the last two years about wind generation in the Sandhills. I do admire his tenacity and his passion on this issue. But quite frankly in the Natural Resources Committee, we have heard both of his bills, we have had lots of his constituents who have come before the committee and plead their case, and they are very passionate about this issue. But as a regional issue, that's their privilege. But we need to be looking at this from the state level. The way NPPD is citing the R project as part of the Southwest Power Pool, you know, if you sit down and talk to them, it makes perfect sense. There are reasons why that is the chosen route. Just because it goes through someone's property, or someone's backyard, they don't...that's not the reason they chose that to infringe upon someone's rights. It is about making sure all the lights are on in Nebraska all the time. I just saw an article where Nebraska is the number one state in the nation when it comes to reliability. That is my number one concern. I remember 30 years ago, we had a tremendous blizzard in my part of the country, and I was without electricity for quite a while. Weeks. And I have a lot of respect for the people in our power industry that keep the lights on. I have tremendous respect for the linemen, the people out on the ground getting the...keeping the electricity on because that was not fun. That's part of the background that I bring to this job. But as the committee chairman who was supportive of Senator Brewer's bill coming out of committee this year, but it did not make it out. We had a 4-4 vote. I am opposing his amendment on procedural issues. If Senator Brewer wanted to bring his bill out, he should have done a pull motion, not trying to attach it to LB1008. There are a group of people up in the Sandhills that have Senator Brewer's ear, and I know they are talking to him on a regular basis. I've been included in some of those e-mails and I understand their passion. I'm a landowner too. Personal property rights is very important to me, but this is not the right way to go about it. We've had two bills, two hearings. We've had everybody show up at a couple of different interim studies. The way Senator Brewer is trying to do this is incorrect. Procedurally, the Legislature has a process. Introduce a bill, go to a committee, have a hearing, let the committee decide whether or not the full body gets to hear it. That's the way it works. That's the way it works well. If you don't like it, there are other options. One of them is trying to attach it to a different bill. That's why I'm opposing it. If Senator Brewer were going to try and pull it, I would have to give some serious thought whether I would vote for that or not. But as committee chairman, in this scenario, I'm going to have to oppose AM2609 and I certainly encourage all of my colleagues to do the same. Thank you, Mr. President. [LB1008]

PRESIDENT FOLEY: Thank you, Senator Hughes. Items for the record, please. [LB1008]

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CLERK: Mr. President, Enrollment and Review reports LB1081, LB1081A to Select File. I have two confirmation reports from the Education Committee. And a series of amendments to be printed to LB640 by Senator Baker. Thank you, Mr. President. (Legislative Journal pages 1144-1146.) [LB1081 LB1081A LB640 LB1008]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Continuing discussion. Senator Williams. [LB1008]

SENATOR WILLIAMS: Thank you, Mr. President, and good morning, colleagues. And I stand also in opposition of Senator Brewer's amendment for many of the same reasons that have just been cited by Senator Hughes. I happen to come from a legislative district, though, that has a significant amount of wind generation. At the current time just outside of Broken Bow there are a little over 100 turbines there. There are 50 to 60 more scheduled in the southern part of Custer County, all of which are helping significantly with employment issues, with tax issues, with economic development issues. Underneath this amendment is a moratorium whether you see it or not or whether the name is mentioned in the bill. If you look closely at the amendment, no wind energy generation project shall be constructed in a county after August 1 of 2018 until the county has zoning regulations or zoning resolution as described by such and such, which addresses the things that Senator Brewer talked about. This is a de facto moratorium because these counties will have to stop projects, stop moving forward because they will have to step back and meet the requirements that we as a state are telling counties that they have to do. Counties themselves certainly have zoning opportunities if they take advantage of them. I don't think there's anyplace in this for the state telling counties what they have to do. Therefore, I strongly oppose Senator Brewer's amendment. On the underlying legislation, I believe we have seen quite clearly how public power has benefited our state for a long time, and how it will continue benefiting our state into the future. It's hard to talk against transparency because transparency is vitally important. But using transparency as an argument to give up your business secrets, your business model, how you make your business tick, and give that to your competitors is simply not fair. We wouldn't ask any private business to do that. We wouldn't ask any nonprofit to do that. But all of a sudden, that's sort of what's being asked here. To have public power, because it has that, quote, public, end quote, designation, have to give up everything. If you think that's going to benefit us, I would say you're sorely wrong. There are proprietary important information, there are business modes of operation that are necessary. And I would conclude, then, that we should protect those and allow public power to continue serving our state. So again, I would encourage you to vote against Senator Brewer's amendment, which in essence limits our power and creates a de facto moratorium going forward on wind energy generation in our state, but support the underlying Natural Resources amendment and the underlying legislation. Thank you, Mr. President. [LB1008]

PRESIDENT FOLEY: Thank you, Senator Williams. Senator Larson. [LB1008]

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SENATOR LARSON: Thank you, Mr. President. Though I'm not a huge fan of Senator Brewer's amendment, he's not wrong when it comes to the transparency issue. And when it comes to keeping the lights on, I know Senator Hughes had a tugging story of how the linemen and those workers that keep our lights on do a good job. And I think that's one thing that we have to distinguish ourselves is there is a difference between retail and transmission and generation. The questions that were asked here, the questions that we are looking for deal with generation. They're not based on the retail and the transmission side. Public power does what would seem specifically in Nebraska a good job on the retail and transmission side. Our REA's have value in that side. That being said, on the generation side, and hence when you look at the questions that were actually asked by Mr. Aksamit, there are serious questions that we have to dive into and continue to understand if we are going to continue to have public power in our state and they are shutting those down. Colleagues, everyone in the state of Nebraska are shareholders of public power. If you are a shareholder in a company and you get on the earnings call and you ask specifically about a certain facility, they are going to give you an overview of that facility. They aren't just going to say, well, all our generation did X and Y. Oftentimes, they will even go into each facility and discuss those. Senator Hughes, will you answer a question? [LB1008]

PRESIDENT FOLEY: Senator Hughes, would you yield, please? [LB1008]

SENATOR HUGHES: Of course. [LB1008]

SENATOR LARSON: When I look at the open records request the first thing that is requested are the documents sufficient to show actual expenditures and revenues by cost and profit centers for each year from 2008 and 2015. This is the one that was given to NPPD. I'm sorry, I didn't say that in the beginning. So essentially when it's asking for revenues and costs and profit centers there are certain retail locations, but we'll focus on the cost and profit centers that are generation. I continually hear you and supporters of this anti-transparency bill say that they need to be able to protect this knowledge. But with the SPP, and the bids going out the day before in essentially a competitive market, what is the problem with the people of Nebraska knowing exactly how much a certain facility is or is not making? [LB1008]

SENATOR HUGHES: The problem we have, Senator Larson, is that we have a public entity, which is public power in Nebraska, competing in a private sector with a raw commodity. [LB1008]

SENATOR LARSON: But that doesn't necessarily answer my question. What is the problem with the people of Nebraska knowing exactly how much each generation facility is...is losing or making? Because I hear the talking points from public power coming out of your mouth, but that doesn't answer the question. They're talking points. Why should the people of Nebraska not be

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able to know how much a...we'll say Gerald Gentleman is making or losing in a specific year?
[LB1008]

SENATOR HUGHES: Because it is a public entity that is competing in a private sector business.
[LB1008]

SENATOR LARSON: See, Senator Hughes, therein lies your issue. You're saying we should not tell the public the truth because it's competing against a private business. And therein lies the fault moving forward. In the end, colleagues, this is our business. [LB1008]

PRESIDENT FOLEY: One minute. [LB1008]

SENATOR LARSON: We as shareholders own public power and we have a right to know where that money is going. We have the right to know where a school board's money is going. And how the...a school is making and losing money, and they compete against private schools. And in the end, public power has a lot more cost to your everyday life in terms of rate paying, keeping the lights on. This is a serious issue and you, by shielding them, are going to further lead to them pulling the wool over your eyes moving forward of costs and what their debt situation is. I'd love to know what the debt situation of NPPD is, but what they'll say is that's private information. Any business... [LB1008]

PRESIDENT FOLEY: Time. [LB1008]

SENATOR LARSON: ...that you're a shareholder of would have to give you their debt information. Thank you, Mr. President. [LB1008]

PRESIDENT FOLEY: Thank you, Senator Larson. Senator Morfeld. [LB1008]

SENATOR MORFELD: Thank you, Mr. President. Colleagues, I rise in opposition to AM2609. I'm opposed to the concept within the amendment and I'm also opposed to it being attached on here when it didn't get out of committee. I also think that this is an issue that deals with local control. Local counties can decide whether or not they do this already. And, in fact, that's where we have traditionally left zoning decisions in any case. So I think it's unnecessary. I think it's an overreach. I think it also denies local control and due process, and I will vote against AM2609. Thank you, Mr. President. [LB1008]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Chambers. [LB1008]

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SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, Senator Hilgers was here but I don't see him. So I'd like to ask Senator Larson a question or two, if he would yield. [LB1008]

PRESIDENT FOLEY: Senator Larson, will you yield, please? [LB1008]

SENATOR LARSON: Yes. [LB1008]

SENATOR CHAMBERS: Senator Larson, from some discussions I've heard, you have read the Rule Book so you have some familiarity with it. Is that true? [LB1008]

SENATOR LARSON: Some. [LB1008]

SENATOR CHAMBERS: Have you ever come across a rule in your reading that says a member shall not stand on the desk during proceedings? [LB1008]

SENATOR LARSON: No. [LB1008]

SENATOR CHAMBERS: Neither have I. Thank you. Members of the Legislature, I have not read a rule that says the Lieutenant Governor shall not preside when he has taken a political position against a member of the Legislature, when he has taken a position on behalf of the one opposing a member of the Legislature in an upcoming election. Nothing is more political than an election. We can say over and over and over that the Unicameral is nonpolitical in the sense of you not having to declare membership in a party. But in every other respect, like any entity where people are elected to it, it is political, in the general sense of that word. The Governor has...the Lieutenant Governor has taken a position which is blatantly political. It is known that this preacher, this Riskowski person, is running against Senator Ebke. The Governor has made it clear that he has great dislike and dissatisfaction with and for positions Senator Ebke has taken and for positions she has not taken, in both instances contrary to the Governor's position. So the Governor having made it clear that Senator Ebke has been marked for defeat, for the Lieutenant Governor to appear at a function designed to benefit the person running against Senator Ebke, to me, is inexcusable. The Lieutenant Governor ought not be presiding in this Legislature. There's no rule that says he can't, but there are traditions. There is such a thing known as common sense. Making an appeal to common sense, he should not be here. I'd like to ask the Speaker a question, if he's in the Chamber. [LB1008]

PRESIDENT FOLEY: He is excused at the moment, Senator. Speaker Scheer is excused at the moment. [LB1008]

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SENATOR CHAMBERS: Oh. Thank you. I don't say he's a mind reader but he might not have wanted to get into some discussions. Ha! That's a joke. What I was going to ask the Speaker is if he would try to find me out of order should I decide to stand on the desk. Which would be more inappropriate: my standing on the desk, which is very capable of supporting my weight, or the Lieutenant Governor presiding in an official capacity after having taken a public position on behalf of the opponent of one of our members? Which is more inappropriate? Maybe, because there is so much anti-Ernie in this state, people would say that my standing on the desk is more inappropriate. Yet, these white people didn't get upset when a bobblehead of President Obama... [LB1008]

PRESIDENT FOLEY: One minute. [LB1008]

SENATOR CHAMBERS: ...was placed on a fence post by that notorious racist McCoy. And he...I don't talk behind his back. We went at it on the floor. And he knocked it off the fence post with a contemptuous gesture. That's a white man dealing with a black President. So nobody said anything, except me. This is a case...it is a white man offending, but the one he is offending against is a white woman. I'm going to turn on my light, but thank you, Mr. President. [LB1008]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Bostelman, you're recognized. [LB1008]

SENATOR BOSTELMAN: Morning. And thank you again, Mr. President. There's some comments, some statements being made, and I just want to come back and maybe reground ourself a little bit on a few areas the people understand. One on price structuring statements, financial information, there's a plethora of information that's available on-line. I just have a copy of some of it right here. It starts with assets and deferred outflows, liabilities, deferred inflows, net position, operating revenues--let's see, what else--supplemental noncash capital activities, utility plant activity for the year. There's just a lot of information, several pages, and there's a lot more. General revenue bonds, there's a lot of information out there. A lot of the pricing things we're talking about is done, is...that information is out there, public. It's in aggregate form. Some things also when we talk about proprietary information, examples of, is SPP integrated market bid strategies, unit-specific production costs. And we're talking about a minute ago, we're talking about the SPP and bids going in. If you could take and string together bids over a certain amount of time, say it be five days, a week, two weeks, I think you'd have a pretty good idea where those costs are and what that would be for that utility or for that generation facility. And also I think when we're talking about this, this isn't just public power in itself. It's all government entities. So I think on the bid process we're talking about, if you start tracking what those bids are, you're...pretty soon you can figure out exactly what those costs would be. And when you're the competitor against someone, that's exactly some of the information that I would want, is to know

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what their bids are, what their structure are, and that's how you would start learning what that is. Unit-specific generation forecasts, fuel contract terms and conditions, rail and transportation contract terms and conditions, outage schedules before they proper...before they're properly posted, vendor propriety information, economic development prospect information proposals. And I want to go one more step past some of the proprietary information, what the Supreme Court said specifically in the case. The Supreme Court acknowledged public power utilities are different, are different than other government entities, functioning in a proprietary capacity. By law, they must operate in a successful businesslike manner. That's on page 125 and 126, and I read that, quote: We recognize that NPPD is not a typical government body. A public corporation organized for the purpose of generating, transmitting, and distributing electric energy operates in a proprietary as distinguished from a government capacity. "The Legislature gave to public power districts the usual powers of corporation organized for public purposes, and statutes located in chapter 70, article 6, of the Nebraska Revised Statutes (concerning public power districts) are intended to permit the business of the district to be operated in a successful and profitable manner." There it speaks specifically, the court speaks specifically I believe to the fact that they should be operating in a businesslike manner where not all information is proprietary...or public. It is proprietary. It is not open to the public. The Supreme Court also agreed the information NPPD was attempting to withhold was competitive information. The Supreme Court said that the Legislature can protect this competitive information. As well, it said this fix could be made in Chapter 70. Chapter 70 falls within Natural Resources Committee and the public power statutes. That's on page 127. And I mentioned that the last time we're on record on this. If...and quote again what the court said: Is presented...if presented with opportunity to exclude a public power district competitive information from public scrutiny, the Legislature might well do so. But thus far it has not. "If the Legislature had done so, we would not hesitate to apply the 'other statute' exception of the public records law and the general principle favoring a specific over a general statute." They said specifically, they looked at this case under Chapter 70, specifically looking at a word, that word being "and" versus "or," and I believe what we're doing here today, what we're talking about today is what is allowed under statute, what the court had determined is allowed or not allowed under statute as far as proprietary information, giving that certain amount of proprietary information that protection, if you will, within statute of Chapter 70. [LB1008]

PRESIDENT FOLEY: Time, Senator. [LB1008]

SENATOR BOSTELMAN: Thank you, Mr. President. [LB1008]

PRESIDENT FOLEY: Thank you, Senator Bostelman. (Visitors introduced.) Senator Brewer, you're recognized. It's your third opportunity, Senator. [LB1008]

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SENATOR BREWER: Thank you, Mr. Chairman, colleagues. All right. I guess I'm ready to take the gloves off, because that seems to be how we do business here. Let's start off with going to the legislation. I'll actually read it. Let's go down here and read through the highlighted paragraph which in Section 3 says, "Competitive information is information which a reasonable person, knowledgeable of the electrical utility industry, could conclude gives an advantage to business competitors." All right. That's a pretty open statement. Now I could call a bunch of folks out on the mike here and ask them, does that include fuel costs, O&M costs, overhead costs, debt costs, capital expenditures? But I'm guessing they'd just stall and eat up more time. So let's take a look at why all these people from my district decided to come all the way to Lincoln, Nebraska, three different times, fill two rooms, and in some cases only be heard by half the members of Senator Hughes' committee, because at least four of those members really didn't want to hear them very bad. They were dead in bed with big wind, so whether they came or not was really not important. They had made up their minds and there was no fair look. I'm not going to argue with Senator Hughes that I could have pulled this to the floor, but I think it's really rich that he decides that he can take and attach to Senator Bostelman's bill, which is about protecting wildlife, and put his bill that had to do with big power on it. With that said, let's go back to where I was when we were talking about the R-line. Why do we not trust power? Let's talk again through the R-line. So you build a line that goes 100 miles out of the way. It cost hundreds millions more to the state of Nebraska. Your reason? To meet up with big wind. Why? It's private wind. There is no reason for it except to spend the money of the Nebraska taxpayers. But then let's talk about how they did it. They didn't ask for permission to go on land. They went on land. They left gates open and angered the people. That's why we ended up having court cases. As if that wasn't enough, they decided they would push this line through and not be honest about the impact on the environment. Specifically, they decided that raptors and the whooping crane weren't important enough to list on the endangered species that should be considered when they build the line. That's not deceptive, of course. That environmental impact study is the only thing that's kept the R-line from going through. Now, when I took this job, the issue at hand was to try and represent the people that are out there that are concerned about big wind. Why are they concerned about big wind? Because it was being shoved down their throats. Everybody says give local control. That's exactly what LB1054 was trying to do. If there was no way for the county to have the issue addressed, then the Nebraska Power Review Board would. But then when we modified it with the five issues, that is directly answering all the issues that need to be answered before you build wind energy. It doesn't keep the county from doing anything. They just need to make sure and address these issues. Senator Williams is right. He's got wind towers littered all over Custer County, and I'm sure that that benefits him. But let's talk about the people who don't want wind and getting it shoved down their throats. That's the part that I'm trying to address here with this bill. Now the other issue with NPPD is, as we were moving forward last summer to try and address these concerns, the environmental concerns of the R-line, because again remember, unnecessarily it's taken a route through the Sandhills and destroying Sandhills land they're never going to get back. You can't clear the area necessary, cut roads through those Sandhills, and not

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have it impact those Sandhills. And the crazy part--it was unnecessary. Take the southern route. It already parallels power lines, already parallels roads. It was done for one reason and one reason only,... [LB1008 LB1054]

PRESIDENT FOLEY: One minute. [LB1008]

SENATOR BREWER: ...but that's hidden. It was in the minutes of the Southwest Power Pool that they were building the R-line for that purpose, but they want to cover that up because that doesn't fit their scenario. The contractors that work for NPPD decided what they would do is go to the meeting that the landowners decided to have to talk this issue through and take pictures of the license plates to identify who was at that meeting. They were caught doing it red-handed. There's plenty of articles you can read. So they said, well, that wasn't us, that was the people who work for us, when I addressed this issue to them. I'm sorry, that's a sad excuse. They work for you, they represent you, you're just as guilty as they are. Then they try to shrink lawyers into the meeting so they can hear what's going on inside there. There's nothing honest or upright about what public power is doing. That's why if we give them a green light, we're only going to enhance their ability to do these kind of things. The people will have no voice. Now with that said, I would ask you to take a look at the fact that... [LB1008]

PRESIDENT FOLEY: Time, Senator. [LB1008]

SENATOR BREWER: Thank you, sir. [LB1008]

PRESIDENT FOLEY: Thank you, Senator Brewer. Speaker Scheer. [LB1008]

SPEAKER SCHEER: Thank you, Lieutenant Governor. I'm speaking on behalf of the Exec Committee and Senator Watermeier, who's in a meeting. And I will read it because this is not my announcement but his. But it says, "As you know, interim resolutions must be introduced prior to adjournment tomorrow, March 27th. However, it would be greatly appreciated if you would try and hand in your interim study resolutions by 5:00 p.m. tomorrow so that they can be processed for the Journal earlier in the evening rather than later." And they would appreciate your cooperation with this. Thank you.

PRESIDENT FOLEY: Thank you, Mr. Speaker. Mr. Clerk for an announcement.

CLERK: Mr. President, I have three study resolutions by Senator Kolterman...or two and Senator Hansen has a new study resolution as well (re LR368, LR369, and LR370). An announcement:

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The Government Committee will have an Executive Session, Mr. President, at 11:00 in Room 2022; Government, at 11:00. (Legislative Journal pages 1147-1148.) [LR368 LR369 LR370]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Continuing discussion on the bill and amendments, Senator Wayne. [LB1008]

SENATOR WAYNE: Thank you, Mr. President. Colleagues, these are one of these issues that we as a body have to start having a bigger conversation about public power in general. And we have to do what Senator Kuehn said the other day--separate out transmission versus generation. We need to have a serious conversation about generation costs; what the ratepayers, i.e., our taxpayers, have to pay for that cost; how much debt is included in that cost. And underneath the proposed language of AM2564, we will not have access to that information. We, as state senators, will not have access to information a local political subdivision deems as confidential. I want us to put that in perspective. The only thing that can be withheld confidentiality-wise from the school board I used to represent was student information or some legal information. If a bid came in and that private industry had a competitive advantage or a competitive proprietary information, that may have been. But the government body itself could not have confidential information that they would deem confidential, same as our local government, city council, everywhere else. Senator Hughes agrees, we have a public entity competing in a private market. And what's confusing for me, when I listen to my conservative friends talk about what it means to be a conservative, this goes against the grain of what you all tell me you stand for. Furthermore, Senator Williams, there is a complete difference. This is a public body. Their information should be knowable. If there is a billion-dollar debt, long-term debt, that our taxpayers have to pay, we should be able to have that conversation. We should be able to know what that cost is going to be and how will they be able to pay for it. Underneath this bill, this body will never have that conversation. Furthermore, we entered the SPP market in 2009, 2008-2009, and when the SPP decided to go to a market rate in 2014, there was no bill introduced allowing this local government entity to commit our state for the next 30 to 40 years in a market where, if we are to leave, which I have a bill on Select File to leave the SPP, to move us into MISO so actually we can actually generate at a profitable rate. Because we have coal still as a big market here because of our long-term commitments at the local level, we could actually sell energy if we were to compete in MISO instead of having our energy shut off. Again, what concerns me about this bill, colleagues, is it's not just Aksamit or whoever else asking for information. This bill limits our ability to have that conversation about public power. And I think, until we have that conversation, we should not limit this. Again, the notion between generation and transmission has to be distinguished. The notion between what they are competing against private market versus what me, as a ratepayer, have the... [LB1008]

PRESIDENT FOLEY: One minute. [LB1008]

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SENATOR WAYNE: ...right to hear and listen to and see, as if I was a shareholder. We should be able to see this information. And I find it ironic that my conservative friends, who argue about transparency, government intrusion into the marketplace, is now supporting the exact thing they argue against, government intrusion into the marketplace, because that is 100 percent what this is. I suggest we get out of the generation business altogether and we focus on what public power is good at, which is transmission and customer service to the local. Why? Because there are already entities right now, South Sioux City, who are buying from the open market. They did not renew their contract with NPPD. And in fact, LES just canceled their contract last year with NPPD. What do they know that we don't know? [LB1008]

PRESIDENT FOLEY: Time, Senator. Thank you, Senator Wayne. Senator Hughes. [LB1008]

SENATOR HUGHES: Thank you, Mr. President. I would like to address some of the comments that have been coming in opposition to AM2564. When we talk about schools, and the point I was trying to make to Senator Larson that there is a difference between a public school and a private school, because they are offering a different outcome. When it comes to power generation, electrons are the same. It doesn't matter where they come from, whether they come from wind or coal or hydro, natural gas. Once they're generated, it becomes a generic commodity. There's nothing to differentiate on value of what it is. It is what it is. There are lots of places where government competes in the private sector. Schools is only one of them. The reason people are willing to pay more in a private school is because they believe they're getting a better value. Public power in Nebraska has a publicly elected board. If you want that rate information, Senator Larson, run for the board. The reason that you cannot get that rate information is because we are also protecting the ratepayers of the state of Nebraska. They are the owners of public power. And giving a competitive disadvantage to other generators of electricity hurts them. Every day, the night before the next day, the power generators across the SPP bid their power into the Southwest Power Pool. They put a number out of what we are willing to generate power for. That's their business model today. And depending on what SPP sees as the load that's going to be coming, they have a certain amount of power that they will let onto the grid. And it has a lot of things to do with positioning. You know, it's pretty hard to push power from northern Texas to...into South Dakota. It gets very complicated when you begin the transmission line and how much power you can push through a transmission line, what the temperature is, how much the wind is blowing, because of how much wind is available and what the wind generators bid their power into the market at. This is a very complicated industry. And it's important that we rely on the people in the industry who have been doing a good job. We talk about the rates. In fact, NPPD's retail rates have remained stable for five years in a row. Wholesale rate charges have been minimal. Wholesale rate changes have been minimal through 2018, and are primarily due to transmission additions, not generating costs. If you want to know what NPPD's debt is, look at their annual report. I've got the 2016 annual report here. Turn to page 46. It tells you what the revenue bonds consist of. They put an annual report out. There's 64

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pages of information here. Does it give you specific rate or cost of production for each facility? No. That's not information that the average ratepayer needs nor, I believe, desires. [LB1008]

PRESIDENT FOLEY: One minute. [LB1008]

SENATOR HUGHES: If the board of directors felt the need, if they felt the cry from enough of their ratepayers, they could make that public. But as a business decision in a competitive market, that's undercutting their authority. That's not good business. And it's not just Nebraska Public Power against everybody else in the SPP. The people who generate power within Nebraska--NPPD, OPPD, LES, MEAN--they all compete against each other as well. It's a very competitive market and knowing those figures isn't necessary. They've been doing a good job. The information is out there if you want to get it. And if you don't...aren't getting enough information, run for the board. Thank you, Mr. President. [LB1008]

PRESIDENT FOLEY: Thank you, Senator Hughes. Senator Larson. [LB1008]

SENATOR LARSON: Thank you, Mr. President. You hear again from Senator Hughes, this is just so complicated, let's just pull the curtain down over it and ignore it because it's just too complicated for us to understand and it's too complicated for the public to understand. So let's just pull the curtain down and ignore what's happening. That's exactly what Senator Hughes just said--it's just too complicated for us. Colleagues, it's not too complicated. It's simple. This is a public entity. Most of what they do should be accessible by the public. As I said last week, I'd be okay if they have a specific contract with businesses or even the...essentially, they're trying to lure Facebook or some other company to come to Nebraska and they are setting up a contract for rates. Should that be private? Yes. I can understand that because there is actual competition from other states to lure that business here. But in terms of the cost of how much it costs them to produce energy at each generation facility, that is public information. And Senator Hughes brings up a great point: Well, they compete against each other. Senator Hughes, you're right. Beatrice wanted to build their own generation facility and NPPD didn't want the competition so they filed to the Nebraska Power Review Board to try to stop Beatrice to build their own generation facility. And part of their argument is, well, we just have too much generation so they shouldn't be able to build it, because essentially, by them leaving, it will raise everybody else's rates. When I say that is the socialistic part of public power, that is very true. These people can't leave because then everybody else's rates will rise. So let's just pull the cover down, ignore what they're doing, let them continue on the path that they're on because they're public power. And, by God, the government and public power wouldn't ever leave us...lead us astray. Colleagues, Senator Wayne had some very good points when it comes to the SPP and how we got to the SPP. These entities that the Legislature created unilaterally decided to join a generation pool without ever coming to us. And part of the problem that they created when they chose to decide to go to

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the Southwest Power Pool versus, let's say, MISO, which would be to the east, they chose a specific pool that has overgeneration and not a lot of individuals that actually use the power. So essentially, we have an abundance of power and fewer people to use it. What that's doing is it's creating a glut of energy in the market, and there are...and this is part of what I...when I say we'd like to get an open records request, how much of the time are generation facilities selling power at a loss? How much of the time are they paying people to take their power because they're causing more congestion? Maybe Senator Brewer has a point with the R-line. They say they need to build the R-line to relieve congestion. Well, how much congestion... [LB1008]

PRESIDENT FOLEY: One minute. [LB1008]

SENATOR LARSON: ...are they putting on their own lines because they refuse to turn the power plants off? They just put an extra \$25 million into Gentleman to refurbish part of it, I believe. Yet, they continue to complain about congestion. Maybe they should have built the R-line first. But, as I said, we're going to continue to pull the wool down everybody's eyes because they're public power. We don't know why we like them so much; we just do. They're public. It's great. Government is great. They're public power; they won't lead us wrong; they have our best interest at heart. I've heard that motto a lot from a lot of different places and we're falling into that trap. Thank you, Mr. President. [LB1008]

PRESIDENT FOLEY: Thank you, Senator Larson. Senator Krist. [LB1008]

SENATOR KRIST: Thank you, Mr. President. And good morning, colleagues; good morning, Nebraska. First and foremost, I want to address comments that have been made about the SPP versus other power pools available to us. That decision was not made in a vacuum. That decision was made by, for example, at OPPD, an all-elected board. Who were they elected by? They were elected by the citizens that are the stakeholders, the ratepayers in that district, in the Omaha Public Power District. So, once again, we are second-guessing a decision, maybe--I'm not--but some are second-guessing a decision that was made by an elected board. And who are they elected by? The ratepayers. Secondly, I have to say this. Senator Wayne may be right on target with the comments that he's made in terms of public versus private in competition, but I'm still a major supporter of public utilities. I think they've served us well. Southwest Power Pool may essentially have a surplus of power most of the time, but when you turn the light on, whether or not the energy is coming from the north Omaha power station, the Nebraska City power station in the metropolitan area, or anyplace else, Fremont or wherever you're gathering your power, you have an assurance, an awareness that not only are you paying as least as possible, less...the lesser the kilowatt price as possible, but you're also assured that in times, which we have seen times, both terroristically and for climatological reasons, power stations have been taken out of commission. Let's look at the 2011 floods and what would have happened if we would have not

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been connected to a power pool that would have given us the power we needed. We had the nuclear power station at Fort Calhoun, which no longer exists, by the way, the north Omaha power station. And flying for the Corps of Engineers, I flew all up and down the river. Every power plant south of Yankton was in jeopardy of shutting down or they had to shut down. Now where is the power going to come from? It's going to come from that pool. But I would like to focus most of what I have to say not on public power, other than to say I am a supporter of public power. I'd like to focus my remainder of my time on why it's necessary to talk about this issue in great detail, along with the other agencies. I'm going to read from an e-mail that I received. I mentioned him the other day, Mike O'Hara, a respected constitutional lawyer. On Saturday...I quote: On Saturday I mentioned that AM2292 was a flawed compromise between the media and the public power district. I mentioned that we had a superior amendment could both cure the real concern of public power industry as well as the very real concerns of all government entities in Nebraska. I will stop or end quote there and refer back to Senator Schumacher's comments the last time we talked about this issue, and that is that basically this is...if we don't do this now on a limited basis, I believe his analogy was we're letting the smoke out of the cigar and it's going to be very hard to put it back into the cigar, meaning we have some privacy issues and competitive issues that are at risk here. Let's protect what we have, limiting it to this particular amendment,... [LB1008]

PRESIDENT FOLEY: One minute. [LB1008]

SENATOR KRIST: ...AM2564. I will stop reading and I'll say this in summation. I have given that amendment to Senator Bostelman and I've given it to the Chair of the committee, and I believe that that amendment that is proposed does address all governmental agencies in terms of the Privacy Acts and the anticompetitive issues that we're bringing up. And I think that bill, on a larger scale, needs to go to Government next year for you to discuss whether this privacy is, indeed, warranted across the board--bigger issue. Right now I'm supporting AM2564 and the underlying LB1008. Thank you, Mr. President. [LB1008]

PRESIDENT FOLEY: Thank you, Senator Krist. (Visitors introduced.) Continuing discussion, Senator Kolowski. [LB1008]

SENATOR KOLOWSKI: Thank you, Mr. Lieutenant Governor. I also stand in opposition to AM2609 and supporting AM2564 and LB1008. For all the reasons you've heard many others speak to the issue, we have, for over the six years I've been on the Natural Resources Committee, have had these discussions time and time again. And our strength and support for public power in Nebraska is strong. We need to continue that. But it's also in transition. The power companies and the changes that are going about will continue to impact the power grid throughout the Midwest, and our role in that is dominant because of what we've done and where we are. I want

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to thank Senator Krist for mentioning the flood times on the Missouri River and the difficulty we had during that time. And his comments are right on target as far as the issue of delivering power to the many uses we've had throughout the Midwest when that flooding took place and the danger that was to all of the cities in its path. I hope we can move ahead on this. Again, I'm against AM2609. And keep in mind where we are and the changes that are going on, and hopefully we'll make the positive decisions in the future to combine these things together to have the greatest power source within the Midwest. Thank you very much. [LB1008]

PRESIDENT FOLEY: Thank you, Senator Kolowski. Senator Williams. [LB1008]

SENATOR WILLIAMS: Thank you, Mr. President. Good morning, again. I would like to once again rise in opposition to LB2609 and just point out that it's, in my judgment, at least in looking at this, simply unnecessary. Current laws allow counties to adopt all kinds of zoning regulations, including a moratorium of their own, including a complete ban of wind energy if that's what they wanted to do. In fact, we've had one county, Stanton County, that's actually done that. We've also got a number of counties that have spent time putting together their own zoning regulations. And if passed, AM2609 would step in front of that and say, oh, stop; even though you've done this and are in the process, if you haven't covered each one of these single points, stop. So the thought that we are not passing things down to the county is just crazy here. We don't need this. Counties can do it now. And land use like this should be local. Also, a final comment from me, at least, on the Natural Resources amendment that I do support, supporting public power. And transparency, as we've talked all morning, is a tricky issue, but transparency can be the thing in a certain case that leaves our taxpayers and our ratepayers at a competitive disadvantage because the competitors will not have to be disclosing this business-type information. I think that's clearly the case here and clearly a case of why we need to step up and step up quickly to fix this situation so public power can continue in our state. Thank you, Mr. President. [LB1008]

PRESIDENT FOLEY: Thank you, Senator Williams. Senator Erdman. [LB1008]

SENATOR ERDMAN: Thank you, Lieutenant Governor. Good morning. Last summer I was privileged to join Senator Brewer in Thedford. There was a meeting there by the ranchers that were going to be affected by the R-line in Thedford. It was with Fish and Wildlife and about a hundred of Senator Brewer's closest friends. Those people came there to share their concerns about what they're going to do to that Sandhill region by building a power line through there. They know full well that you can never restore that once it's done. It was an interesting hearing. I appreciate Senator Brewer's work on this. He has worked diligently to represent those people who have sent him here to do that. So, Senator Brewer, you need to be commended for your work on that. And with that, I would yield him the rest of my time. [LB1008]

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PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Brewer, three minutes, well, it's about four minutes. [LB1008]

SENATOR BREWER: Thank you, Mr. President. And thank you, Senator Erdman. All right, addressing Senator Williams' issue, Senator Williams, would you yield to a question? [LB1008]

PRESIDENT FOLEY: Senator Williams, would you yield, please? [LB1008]

SENATOR WILLIAMS: Yes, I would. [LB1008]

SENATOR BREWER: Are you familiar with the most recent situation in Cherry County and the attempts there to try and establish a board to review wind energy? [LB1008]

SENATOR WILLIAMS: No, I am not. [LB1008]

SENATOR BREWER: All right. Step away from the mike. All right. Here's how it went. They took the time to find people who were volunteers that researched what was necessary to give a fair review of wind energy. And the issues that I addressed were the very issues that they thought were essential so that people would have a voice and address the right issues. Because keep in mind, wind's model, their business model, is to go in and figure out how to win all or at least some of the county commissioners. Once that happens, the fight is over. Now, sure, a county commissioner cannot get elected next time around, but those wind towers are going to be there forever. Actually, they may not be there forever, but the question at hand is, who tears down that tower when its life is over? County is going to take responsibility for that in many cases because the legal requirements to figure out who was responsible after 20 years will be more difficult than anyone can ever sort through. So decommissioning is a key part of that. But the accountability for the actions of those windfarms and where they position those wind towers and how that affects the nonparticipating landowners is so critical. If someone builds a wind tower next to your house and you have to look at it, or you decide you don't want to look at it and you want to sell your property, guess what. You spent a lifetime investing in a home that you can't get anyone to buy now because they got to look at a wind tower that they don't want to look at and they're not going to want that property. It was no action of yours. It was nothing you did that caused that. You just happened to be in the wrong place at the wrong time when your neighbor decided to put up one of these monsters. So I think it's disingenuous when those in this body, who live in places where there are no towers, are the very ones that decided they were going to vote to not let my bill out of committee so that we could have an open discussion with the 49, not the 4. And because of that, we have a situation now where they're moving forward with building windfarms in locations where people don't want them, and they don't have a say because it does come down to three county commissioners. And Cherry County,... [LB1008]

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SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: One minute. [LB1008]

SENATOR BREWER: ...that went through the process, they did the review, they had a hearing that filled an auditorium. Everyone had a chance to get up and say their piece. And when it was all done, the county commissioners decided that they were going to disregard the board that spent nine months putting together the information and the rules, and so there are no rules in Cherry County anymore. Now, I'm sure that those commissioners will be recalled, but that still doesn't change the fact that the people are going to have to look at those wind towers and their property is going to lose value simply because it's the business model that big wind uses. Now, I understand there are a number of people in this room that are dead set in bed with big wind. The part that I struggle with is the power part of it because I have systematically went through the process that NPPD did to take the wrong route with the R-line for dubious reasons, to spend hundreds of millions more... [LB1008]

SPEAKER SCHEER: Time, Senator. [LB1008]

SENATOR BREWER: ...for the cost. Say again? [LB1008]

SPEAKER SCHEER: Time, Senator. [LB1008]

SENATOR BREWER: Oh. Thank you. [LB1008]

SPEAKER SCHEER: Thank you, Senator Brewer. Senator Friesen, you're recognized. [LB1008]

SENATOR FRIESEN: Thank you, Mr. Speaker. I rise in support of AM2564 and LB1008. As all of you know, I'm not a big fan of wind energy because I don't think, as a state, we have still developed a plan on how we're going to deal with public power and wind and solar energy in this state when we already have an abundance of generation currently. So with that, I will yield the rest of my time to Senator Brewer. [LB1008]

SPEAKER SCHEER: Senator Brewer, 4:30. [LB1008]

SENATOR BREWER: Thank you, Mr. President. And thank you, Senator Friesen. All right. Let's pick up where we left off here. It's not about the power companies, how hard the workers work. It's not about if in some crazy scenario where we would have a freak storm or something

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would happen, such as the floods, that we need to build additional power plants so in the case of a worst-case scenario we have power. There has to be a reasonable level with that and it comes down to credibility. It comes down to the fact that we're going to openly agree here in this body to give them almost unlimited power and very little visibility. I've read that paragraph. That's about as open as you could ask for. Now, this is the same company that deceived everyone on why the route went the route that it did through the Sandhills. They were not good neighbors in how they treated the people along the route when they were surveying that route. They did not do the proper environmental study, did not address issues like the raptor birds and the whooping crane. They sent their contractors in to take pictures of license plates on vehicles, and attorneys into the meeting. Now, maybe this is an organization you want to give a green light to, to do pretty much whatever they want. I'm trying to draw a picture for you. It isn't about wind energy. You can vote against my bill if you really think you have to, but what I'm telling you is it's all synced together. The reason these people are so upset...and again, I would call Senator Hughes to the mike but we got little bit of time here. Hands down, the most people that have come to any hearing in this building, short of some that were about abortion and other issues, has been over this issue of wind energy in the Sandhills. And these people are coming for 16-hour round trips. They're leaving their ranches and their places of work to come here to testify, in many cases to only four members on the board, not all eight, because only certain people on the Natural Resources Committee think that their time is worthy to listen to them because they'd already made up their mind whether they're going to support it or not. They came all the way here to try and voice their concerns because they're not getting their concerns heard in their counties. And like I said, they may recall folks, but when the damage is done, it's done. And if the damage is done as part of a hidden plan on the part of power, big power, in this case Nebraska Public Power, to help wind energy, which is private wind energy, shame on them. And if they lie about it and they deceive us now, again, what are they going to do when they have that green light to disguise whatever they're doing and they don't have to answer for it? The issue of wind energy is a big issue in my county. And again, I understand if you love them, but if you love them, you, by gosh, better be looking at them. You better be having those in your district, because otherwise you're simply putting that burden on other people unfairly. I would also ask that you understand that when it comes to the issues of public power, the public part of it, sure, you elect a board,... [LB1008]

SPEAKER SCHEER: One minute. [LB1008]

SENATOR BREWER: ...you elect a board, but on issues that directly impact day-to-day, I guess what you'd say, events, because we went to Columbus and we sat through a board meeting and I saw the process that went through there. Many times they, too, are unaware of things that are going on. I think many of the decisions are made at the senior leadership. Now, granted, that is their process, but to take away our ability to be the check valve, to make sure that these type of

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activities, whatever they're going to be, related to power don't have a watchdog, shame on us. That is our duty. That is our responsibility. Thank you, Mr. President. [LB1008]

SPEAKER SCHEER: Thank you, Senator Friesen and Senator Brewer. (Visitors introduced.) Senator Halloran, you're recognized. [LB1008]

SENATOR HALLORAN: Thank you, Mr. Speaker. Well, if no one has noticed the passion of Senator Brewer on this issue, they should try to put themselves in his seat representing his district. This is the classic example of "not in my backyard." So I'll spend just a minute or so suggesting to everyone that if the R-line was in their backyard and that backyard was as fragile as the Sandhills are, and the state has done nothing, really, to create rules governing what AM2609 is being asked to do, then you would be saying the same things that Senator Brewer is saying. So it's very easy for us all to sit back and say, well, gosh, you know, this is not in my backyard. I don't know. I understand both sides of the issue and I like public power. And I like public power. That's true, I like public power. But they have to be responsible to the actions they take. And again, if this project was doing what it's going to do to your district, what would you say? Would you be standing up as Senator Brewer is? I think you probably would. So I do stand in support of AM2609. I think it's reasonable. And I will yield the balance of my time to Senator Brewer. [LB1008]

SPEAKER SCHEER: 3:20. [LB1008]

SENATOR BREWER: Thank you, Mr. President. And thank you, Senator Halloran. All right. What I'm going to do is share the letter (inaudible) mine. A hundred and twenty days ago I wrote this letter asking for answers. I did that so I would have answers as I went before the Natural Resources Committee to talk to the very issue we're talking about in AM2609. So now, again as a refresher, R-line, 220-plus-mile line. Dog leg north into the vicinity of Thedford, then a right turn eastbound taking it all the way to Holt, right through the center of the Sandhills. If you haven't been to the Sandhills, think about how fragile they are. All you have to drive by and look at where they've had blowouts that do nothing but get bigger. Once the sand starts to cave off and break away, it's pretty hard to ever get grass going again there without special efforts. So, what we're going to do is we're going to cut our way north, and then we're going to make a right and cut our way through the Sandhills, because it isn't just about putting up those giant steel towers, it's about the road that's going to have to go through there because you're going to have to service all of that. So you're building a road, you're building those towers and the platforms under those towers. And then you're going to build those airfields that you hopscotch across with those giant heavy-lift helicopters. So this letter is dated 19 October of 2017: Chief Operating Officer, Nebraska Public Power, Dear Mr. Kent, I've requested...I request you to provide me the following information about the R-line high-voltage power line projected by NPPD. The plans

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to...the plans currently are to be built in my district. I request that this information be provided by Monday, 6 November. I request you provide me a complete set of bid documents for the project along with, as a minimum, I would like to receive the set of plot plans, complete with a set of cuts details and... [LB1008]

SPEAKER SCHEER: One minute. [LB1008]

SENATOR BREWER: ...and the technical...the technical specifications necessary for any and all bids. I also would like to see the helical coil foundation design. Part of that is because the water table is as low as 20 feet in places. Those helical coil cores can go down at least 40 feet. A construction schedule as currently planned. I would also like to know the type and number of heavy-lift helicopters in the plan and a map of all planned depot yards for equipment, sling load rigging areas, and aircraft refueling. I also want the spill migration plan for the hundreds of thousands of gallons of jet fuel that will be necessary to maintain those helicopters during operations. I also want to know the per cost...cost per hour to operate these aircraft and how many flight hours are budgeted to complete this project. [LB1008]

SPEAKER SCHEER: Time, Senator. [LB1008]

SENATOR BREWER: Thank you. [LB1008]

SPEAKER SCHEER: Thank you, Senator Halloran and Senator Brewer. Senator Smith, you're recognized. [LB1008]

SENATOR SMITH: Thank you, Mr. President. I do stand in support of the committee amendment and the underlying bill, LB1008, and in opposition to AM2609. Our state power entities operate transparently with publicly elected governing bodies, open meetings, and public record requirements. I believe the committee amendment and the underlying bill is a common-sense fix that ensures a level playing field for public entities and their competitors. However, I'm afraid that the argument today has been focused entirely too much on just the generation portion of public power, not passing the underlying committee amendment. Not passing LB1008 as amended with the committee amendment affects so much more. Without AM2564, the Supreme Court's decision could subject public utilities to a wide range of requests for proprietary information which would be to the detriment of customer owners because the public power entities could not, would not be able to receive that same information, in turn, from private competitors. We, of course, have public power. We do not have investor-owned utilities in our state. But we still, nonetheless, need to make certain that our public utilities are able to conduct themselves and perform competitively. One of the proponents of the bill and the committee amendment likened this to Nebraska Athletic Department--I thought this was a pretty good

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analogy--drawing the analogy that while the public could request budget documents or staff rosters, the Athletic Department wouldn't necessarily turn over football Coach Scott Frost's playbook, a proprietary document that would put the Huskers at a competitive disadvantage. So what we're asking for here is that you do not turn over public power's "playbook." One of OPPD's executives also commented that the sweeping decisions by the Supreme Court could jeopardize future economic development in the state by giving companies pause before they provide public power companies with their own proprietary information while they considered locating in Nebraska. Again, we need to keep our public power entities and systems strong in Nebraska, and we need to keep it competitive. They do a fantastic job of providing reliability and accountability to customer owners across the state. But we also need to make certain they're able to position themselves to be competitive and affordable. So, again, I understand the passion, the arguments that Senator Brewer is making. I just simply do not believe that this is the right place to do it as I believe that it brings potential harm to the committee amendment and the underlying bill. I ask you, please, to oppose AM2609 and support the committee amendment and the underlying bill. Thank you, Mr. President. [LB1008]

SPEAKER SCHEER: Thank you, Senator Smith. Senator Larson, you're recognized. [LB1008]

SENATOR LARSON: Thank you, Mr. President. Senator Smith, a lot of this...is right. A lot has been focused on the generation portion of it. And as I've stated on the mike, I can understand that there are certain situations, if our utilities are looking to lure a company, or the contracts with specific companies should remain private because those are between specifically a company and what their power and our public power utility is going to give them in terms of a rate and the public power. I can understand where there are certain limitations. But at the same time, when it comes to the actual generation and the cost of that generation, that should be public. Now, mind you, this goes back into the deeper parts of the SPP. All of the generation facilities, the day before, put in bids for what they are going to bid into the SPP. And then that evening they know whether or not their bids have been accepted to sell power. Once they know that, they have a choice. They can continue to run. Nuclear plants, it's hard to turn those off. They're probably running regardless. But there are a lot of other generation facilities that they have a choice and they can look at the, you know, couple-day outcome, if the wind is going to be blowing or the sun is going to be shining, and also use that in terms of their model of predicting of whether or not they should be running the natural gas and the coal plants. My concern is that oftentimes we have found ourself in a situation where many of our generation facilities are continuing to run and produce the power when they have to push it on to the grid, because once that electron has been produced it's got to come on. So they are literally making the power, producing the power but have no one to sell it to, or selling at a loss, a significant loss. Now, they'll make the argument, and I've heard the argument, well, sometimes the market has a higher price than what we bid. They're right. But recently that hasn't been the case. So if you have your generation facilities, and I think that's part of the reason that we ask these questions, and Senator Brewer has

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questions and I don't think Senator Brewer's questions that he listed out were proprietary: Where are you going to store your fuel? That's not proprietary information. That's just asking them to outlay where they're going to have their project. Where are you going to store your fuel? We ask that of private companies coming through this state. Where are you going to have your campsites? Senator Smith knows that. These are just common questions. So that's where I think Senator Brewer is right in the sense of this will give them such a wide berth to hide themselves and hide what they're doing that that is what is concerning. There are certain things that are proprietary that they have dealings with that should be...remain private. But the nuts and bolts of the organization itself is not. [LB1008]

SPEAKER SCHEER: One minute. [LB1008]

SENATOR LARSON: That, in essence, is the public...if you want to be public power, you have to play from a different set of rules than investor-owned utilities. It's just pure and simple. You can't be public power and have all the same privileges as an investor-owned utility. You are public. You are owned by the public. You should show greater transparency, simple as that. If you don't want to show that transparency, maybe we as a body should sell public power. Let's offload them. Let's get out of the generation business. The public power utilities won't even give us the information. I guess I'll have to ask my public...my NPPD board member if he gets the information. [LB1008]

SPEAKER SCHEER: Time, Senator. [LB1008]

SENATOR LARSON: Thank you. [LB1008]

SPEAKER SCHEER: Thank you, Senator Larson. Senator Groene, you're recognized. [LB1008]

SENATOR GROENE: Thank you, Mr. President. I've sat and listened, because anybody who's heard me the last three and a half years or more, I guess we're getting closer to four, I'm a big proponent of public power, big proponent of free enterprise. But there's an exception to every rule, and in Nebraska that is public power. But I'm also a huge proponent of transparency. I've got two bills, came out of the Natural Resources Committee, that I could amend on to this--are about open meetings with the NRDs and N-CORPE--but I'm not doing that, that are on General File. I've read this section in here about notwithstanding any other provisions, may withhold competitive or proprietary information which would give an advantage to business. Who defines that? Here a few years back MidAmerican, Mr. Buffett, hired away the executive director. If NPPD wanted to say, we're going to give you a couple million dollars at the end of the year...when you...with a golden parachute if you stay with us, we'll get you trickets (sic) to the Cubs...tickets for the Cubs, is that proprietary because we're in a bidding process against a

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private company for an executive? How about any executive within their executive branch wants to move and they make a deal with him? Here's another example. Eminent domain: What if the last guy on that transmission line demands \$10 million for a mile through his ranch and he gets it? Is that proprietary that they can keep that secret from every other landowner that they bought eminent domain? Who defines that? If this was amended to say production and bidding information, maybe even, say, software, you've come...one of your engineers came up with a software to make switching energy within a grid more efficient and you don't want to share that, that's fine. But who defines this? How about the contracts with municipalities where they're supplying their energy and the give-and-take and the perks and things that are given and taken. Is that proprietary, that Kearney doesn't know what Columbus got and Columbus doesn't know what North Platte, Norfolk got? Is that proprietary? This needs to be further defined. If it's UP Railroad, biggest classification yard in my district and a coal-mining company, there's bids on that coal. There's bids taken on the transportation of that coal. Is that proprietary? I would think it might be. A deal made with a wind company to transmit their power through their transmission lines, we got two or three or four different wind companies and negotiations are made. Is that proprietary? You're leaving this wide open, folks. (Laugh) This is too broad, too wide. They could claim anything could be kept secret. And I'm a big proponent of public power, but I'm a bigger proponent of transparency in public entities. So as long as this language is not amended, I stand against AM2564 and against LB1008. It's wrong. You know, the University of Nebraska a year or so ago said they could...they didn't have to let us know about their hiring of their executives. We put that individually in the law. We didn't give them a broad blanket like this does. This is too broad a blanket,... [LB1008]

SPEAKER SCHEER: One minute. [LB1008]

SENATOR GROENE: ...too discretionary for those in power. Knowledgeable of the electric utility industry, could conclude gives an advantage to a business competitor, how big a circle of people is that? They get to decide. I don't know who they are. I don't know their knowledge extension, but that little group of people can decide what is proprietary. Maybe University of Nebraska football tickets are throwed in on a contract or two. I want to know that. I want to know what is done with my public power and my tax dollars and rates that I pay to that public power. This is way, way too broad, this language. Thank you, Mr. Speaker. [LB1008]

SPEAKER SCHEER: Thank you, Senator Groene. (Visitors introduced.) Senator Erdman, you're recognized. [LB1008]

SENATOR ERDMAN: Thank you, Mr. Speaker. As you listen to Senator Brewer talk about the fragile Sandhills, I understand exactly what he's talking about. The Sandhills start out by us in western Nebraska, Morrill County, little west of there. And as a county commissioner over the

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years, we had a section in the northeast part of our county that was very fragile. And there were several occasions that we had to move the county road because it was swampy or it was wet. And we had to move it and so we would do that. Once we moved the road, we had to cover the side of the road with straw because if we didn't, when we came back in the spring, the road was gone. It blew away. Unless you have been to the Sandhills and seen what I'm describing as fragile, there's no way you can understand that. And a lot of the blowouts that start out there, Senator Brewer, as you well know, they cover them with old tires to try to get some vegetation started in there. I can't imagine how they're going to restore the Sandhills to the way they were before they came with those trucks and those draglines and all those things, cranes that they're going to set up that structure with. Senator Brewer is exactly right. If they would have disclosed to him the information that he asked for we may not be here talking about this, but that's not the case. They said it's proprietary. So as we met that day in Thedford, Fish and Wildlife were there, and there was a gentleman beside me and I said to him, I said, you know, the question that probably should be asked before we go much further is can the Fish and Wildlife stop this R-line from happening? And we went for about an hour and finally somebody asked that question and the answer was, we never have. So all those people came together to talk about what the R-line is going to do to their resources in their communities, in reality, the Fish and Wildlife had no authority to stop it. So it appeared they already had let out the bids on how they're going to do the construction. And so my conclusion was, whatever the penalty was, whatever the fine is, they're willing to pay that because it looked like forgiveness would be easier than permission. So that whole thing was convoluted and it was very confusing as to why we even came there and talked about it if we could not do anything about it. So, Senator Brewer, I understand what it's like in the Sandhills. I live near there. No one in this body understands that unless they've been there. You described it exactly right. I have a bill in LB1008 raising the Gas Commission pay. I understand that to be the case. I'd like to see that go forward. But we have to have transparency, and I know that some of my public power people are concerned about that. But by the same token, had they responded to Senator Brewer when he sent the letter, we may not be here. So there's some responsibility they got to take on their own. So if I have any time left, I would transfer that to Senator Brewer. [LB1008]

SPEAKER SCHEER: Senator Brewer, 1:15. [LB1008]

SENATOR BREWER: Thank you, Mr. President. Thank you, Senator Erdman. All right. This will be my last chance to talk on the power issue, because I'll close on AM2609. Just remember, we can't get the answers we need now. And then we're going to go around and give them more... [LB1008]

SPEAKER SCHEER: One minute. [LB1008]

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SENATOR BREWER: ...ability to limit what we can have access to. So when we're talking about public power, and in my case we're talking the R-line and I've listed this myriad of issues of why we should be concerned, I will also make this wager with anyone in this room who wants to make it. The estimate right now is \$347 million for that R-line. I say it's \$100 million off. If you look at the things I asked for in that letter, it will tell you the story of what that's going to cost, and it is going to be way, way more than what's currently projected. And by then, it's too late. We are committed to that course and the taxpayers are going to pay for that extra \$100 million. And the route itself didn't have to go that route, and it costs millions more. So they are going to commit us to a course we can't reverse, and they're going to do it with our money, and we're not going to know about it until it's too late and we can't stop it. So... [LB1008]

SPEAKER SCHEER: Time, Senator. [LB1008]

SENATOR BREWER: Okay. Thank you, sir. [LB1008]

SPEAKER SCHEER: Thank you, Senator Erdman and Senator Brewer. Mr. Clerk. [LB1008]

CLERK: Mr. President, I have a priority motion. Senator Hughes would move to invoke cloture pursuant to Rule 7, Section 10. [LB1008]

SPEAKER SCHEER: Thank you. For what purpose do you rise, Senator Hughes? [LB1008]

SENATOR HUGHES: I'd like a call of the house and a roll call vote in regular order, please. [LB1008]

SPEAKER SCHEER: There's been a request to place the house under call. The question is, shall the house go under call? All those in favor please vote aye; all those opposed vote nay. Please record. [LB1008]

CLERK: 22 ayes, 4 nays, Mr. President, on the motion to place... [LB1008]

SPEAKER SCHEER: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Albrecht, Senator Geist, Morfeld, Watermeier, Pansing Brooks, Krist, Blood, Chambers, Friesen, please return to the floor. The house is under call. Senator Morfeld, Senator Krist, Senator Chambers, please return to the floor. The house is under call. Senator Morfeld, please return to the floor.

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The house is under call. We are all here. The first vote will be that of cloture. Mr. Clerk, roll call in regular order. [LB1008]

CLERK: (Roll call vote taken, Legislative Journal pages 1148-1149.) 35 ayes, 4 nays, Mr. President, on the motion to invoke cloture. [LB1008]

SPEAKER SCHEER: Cloture is obtained. The next item to be voted on is AM2609, Senator Brewer's amendment. All those in favor please vote aye; all those opposed vote nay. Please record. [LB1008]

CLERK: 8 ayes, 28 nays, Mr. President, on the adoption of Senator Brewer's amendment. [LB1008]

SPEAKER SCHEER: AM2609 is not adopted. The next question before us is adoption of AM2564. This was divided to begin with, but we are voting on the entire amendment as it was presented in its entirety. All those in favor please vote aye; all those opposed please vote no. Have all voted that wish to? Please record. [LB1008]

CLERK: 38 ayes, 4 nays, Mr. President, on the adoption of the committee amendment. [LB1008]

SPEAKER SCHEER: AM2564 is adopted. Our last question before us is the adoption of LB1008 to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Have you all voted that wish to? Please record. [LB1008]

CLERK: 42 ayes, 2 nays, Mr. President, on the advancement of LB1008. [LB1008]

SPEAKER SCHEER: LB1008 is advanced to E&R Initial. Mr. Clerk. [LB1008]

CLERK: Some items, Mr. President. New resolutions: Senator Brasch, LR371; Senator Baker, LR372. And an amendment to be printed to LB589 by Senator Crawford. (Legislative Journal pages 1149-1151.) [LR371 LR372 LB589]

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

SPEAKER SCHEER: You've heard the request to recess until 1:30. All those in favor please say aye. Any opposed say nay. We are in recess till 1:30.

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RECESS

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chambers. 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: Just an announcement: Retirement Committee will meet at 2:30 in Room 2022. That's all that I have, Mr. President.

PRESIDENT FOLEY: Thank you, Mr. Clerk. (Visitors introduced.) We'll move right in to the afternoon agenda, General File, 2018, senator priority bill. Mr. Clerk.

CLERK: Mr. President, LB776 offered by Senator McCollister relates to jails. (Read title.) The bill has been discussed on the floor this year. The Judiciary Committee amendments have been adopted. Mr. President, just for some housekeeping, Senator McCollister, I understand you want to withdraw AM2018. (Legislative Journal page 700.) [LB776]

SENATOR McCOLLISTER: Yes, sir. [LB776]

CLERK: Senator Groene wants to withdraw a motion to reconsider a bracket vote. [LB776]

SENATOR GROENE: Yes. [LB776]

CLERK: And Senator Groene would also like to withdraw AM2373. (Legislative Journal page 947.) [LB776]

SENATOR GROENE: That's true. [LB776]

CLERK: Mr. President, the next amendment I have to the bill is Senator McCollister's AM2512. (Legislative Journal page 1038.) [LB776]

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PRESIDENT FOLEY: Senator McCollister, you're welcome to open on AM2512. [LB776]

SENATOR MCCOLLISTER: Thank you, Mr. Lieutenant Governor; good afternoon, colleagues. As introduced, LB776 addressed two primary concerns. First, the high cost of phone service for Nebraskans behind bars in county and city facilities. And second, the right to have confidential, no-cost communication with an attorney, even for individuals currently behind bars. Today I'm introducing AM2512 which represents a compromise agreed to by stakeholders for LB776: Senator Groene, Lancaster and Douglas Counties, NACO, and me. The bill came out of committee on a vote of 7-0 with one member absent. AM2512 would retain the following key provisions of LB776. Number one, the right for jailed detainees in Nebraska to have a confidential communication at no cost with an attorney. It is vitally important to protect the constitutional right to counsel for all Nebraskans. It's all important to eliminate the accidental violation of the Nebraska Supreme Court's Rules of Professional Conduct for a prosecutor to whom recordings of such confidential communication may be sent. Number two, prohibition regarding county or city jails receiving excessive commissions or bonus payments from the providers of inmate telephone or video conferencing services. Three, oversight by the Nebraska Jail Standards Board to ensure that jails provide inmates with the means of communication by phone or video conferencing with their families, loved ones, and counsel and that these services are provided at reasonable costs. Establishing such rates, the board may consider for comparative purposes the rates for inmate calling services as outlined in the Code of Federal Regulations, CFR. Rates may allow for adjusted rates to accommodate low-call volumes and per-call revenue in smaller jails in contrast to jails with larger populations and higher call volumes. In any given day, half of the county detainees in Nebraska are pretrial detainees who are still presumed innocent. But all offenders, whether convicted or not, and whether charged with a serious felony or misdemeanor have the need to stay in touch with their parent, their spouse, and their children. Studies have shown that maintaining contact with the outside reduces the chances for reoffending, so keeping family ties strong strengthens the offenders' chances of being rehabilitated and also improves outcomes for children of the incarcerated. Legislative reform for profit telecommunication is gaining momentum nationwide. The best model to date is New Jersey. Similar legislation is in place in Illinois, Michigan, Mississippi, New York, and New Mexico, and is pending in Montana. I should also let you know that the existing contracts that some providers have with the cities and counties will be honored. No precipitous change in that way. Secondly, for the legislative record, we want to maintain that provider is defined as that provider telephone service to cities and counties, not the counties or cities themselves. Thank you very much, Mr. Lieutenant Governor. [LB776]

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

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SENATOR BLOOD: Thank you, Mr. President. Fellow senators, I stand in support of both the amendment and the bill. I think Senator McCollister has a very keen understanding of what's important when it comes to rehabilitation. There are basically three ways that those that are rehabilitated can communicate with their families--it's letters, visits, and phone calls. And unfortunately, there is a strong demographic of those that are incarcerated that don't have the literacy level to communicate in a way that they don't find frustrating when it comes to letter writing. In fact, many of those incarcerated will rely on roommates and others to help them write their family members. So the nice thing about phone calls is that it doesn't matter how far away their family lives, it doesn't matter whether their family works during the day, it allows them the ability to speak with their family and maintain contact. And as we try to eliminate the overcrowding in our state prisons right now, one of the most cost-effective ways we can do that is to make sure that those incarcerated are able to maintain those relationships with their families and their loved ones because we want to make sure, as well, when they're released that they do well in their post-release outcomes and successfully, hopefully, lower the recidivism rate here in Nebraska. As we work to clear out our prison system in an effective and responsible manner, one of the things we can do is be forward thinking. And we can be forward thinking...I'm sorry, can I have a gavel please. And one of the ways we can do this is to make sure that we lower the recidivism rate by doing the simple things like allowing those incarcerated to be in contact with their families. With that I would yield any time to Senator McCollister if he would like it. [LB776]

PRESIDENT FOLEY: Thank you, Senator Blood. Senator McCollister, three minutes. He waives that opportunity. Senator Groene, you're recognized. [LB776]

SENATOR GROENE: Thank you, Mr. President. As you know, I led a filibuster against the original bill. In the meantime, Senator McCollister and myself and the ACLU went round and round and we came up with the amendment Senator McCollister dropped. And I am...I think it clarifies it. It is now good law. If you look at the original bill, it took out the first whole page which was more of an introduction in a court case about intent and what needed to be put in the law. It also...where it had the religious part for other...it said originally that Bible or other religious or spiritual materials, we changed the wording to Bible or other written religious materials to clarify that you can't start having yule logs in your cell. It also took out "shall" and put "may receive revenue for reasonable operating costs." If you put "shall" in there, even if a county wanted to supply some of the cost of the phone service, they could not. With "shall" because it's...you "shall" recoup all of your costs. It also clarifies...the amendment does that they can receive a commission; they can receive a bonus. But it cannot be excessive and it puts it into the...and it also changes the "must" to "may" on using the federal guidelines, which are still being...they're in court yet. But it puts into law what most jails are already doing and it defines the rights of a prisoner in statute that they have a right to converse with their family and their attorneys. I also want to put in the record that when...the way I understand the part about the

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attorneys and the provider, that the phone company is also not held liable, that supplies the phone service, if they can prove that they gave the mechanism to that the county sheriff and the jail warden cannot record or monitor a phone conversation with an attorney. Wanted to make sure that if a jail employee did, that the phone company was not held liable. That is the intent, the way I understand it, it's just not the city and the county can be sued, but also the phone company, the private phone company if they had nothing...if the ability to not monitor was designed in their phone system, they are covered. Otherwise, it's a bill that's reasonable; it's clear. It took out words like "meaningful" and "reasonable" in a lot of places and it's understandable by the average jail employee, the average sheriff. So I'm fine with the amendment and I'm willing to vote green on AM2512 and then eventually LB776. [LB776]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator McCollister, you're recognized to close on your amendment. He waives closing. The question before the body is adoption of AM2512. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB776]

CLERK: 30 ayes, 1 nay, Mr. President, on the adoption of Senator McCollister's amendment. [LB776]

PRESIDENT FOLEY: AM2512 is adopted. Is there any further discussion on the amended bill? Seeing none, Senator McCollister, you're recognized to close on the bill. [LB776]

SENATOR MCCOLLISTER: Yes, I would just like to thank Senator Groene for his constructive help on our bill. I think his help...with his help we improved the bill and I'm grateful for it. So I would encourage your green vote on LB776. [LB776]

PRESIDENT FOLEY: Thank you, Senator McCollister. The question before the body is the advance of LB776 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record please. [LB776]

CLERK: 28 ayes, 2 nays on the advancement of the bill. [LB776]

PRESIDENT FOLEY: LB776 advances. We'll proceed to General File, 2018, senator priority bill. Mr. Clerk. [LB776]

CLERK: LB589 is a bill by Senator Crawford relating to criminal procedures, provides for depositions of a child victim or a child witness. The bill has been discussed, Mr. President. Pending are the Judiciary Committee amendments. Before we proceed, Senator Chambers, you

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had a motion to reconsider a motion to recommit, but I have a note that you wanted to withdraw that, at least for now, Senator. Is that correct? Okay. Mr. President, the committee amendments are pending. (AM438, Legislative Journal page 695, First Session, 2017.) [LB589]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Crawford and Senator Ebke, if you'd like a minute or two each just to refresh us on the bill, then we'll proceed to have debate if there is any. Senator Crawford. [LB589]

SENATOR CRAWFORD: Thank you, Mr. President; and good afternoon colleagues. Colleagues, LB589 is a bill that is focusing on protecting children. And the bill is widely supported by child advocacy groups, in addition to those who testified at the hearing, including the Nebraska Attorney General's Office, the Nebraska Department of Health and Human Services, the Nebraska County Attorneys Association, and the Nebraska Court Improvement Project, and Nebraska Association of Social Workers. And also, legislation along these lines to try to improve the deposition process and protect children in that process is also a component of Nebraska's 2015-2020 strategic plan for victims and survivors of crime. Just want to remind you again that this bill is about recognizing that we're wanting to protect children from added trauma, but still make sure that we have integrity in the court process. And so we're...there is...especially...when we get to the amendments, this bill will just make sure that the court is recognizing when someone has a forensic interview and it's only those children in the most violent crimes...victims or witnesses of the most violent crimes that have this...that are in this process, and then we make sure that the judge considers what protective orders should be in place when a deposition is done for this child and recognizes if there is a request to quash that deposition that the fact that there was a forensic interview is a factor that can be considered. But know that will be the amendment that comes up that will change that part of LB589. Thank you, Mr. President. [LB589]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Ebke, if you'd like a minute or two you're welcome to it to refresh us on the committee amendment. [LB589]

SENATOR EBKE: Thank you, Mr. President. AM438 is the Judiciary Committee amendment. It is a minor amendment brought to the bill and brought by Senator Crawford and to the committee by advocates for the legislation. This amendment would add reference to a court appointed special advocate, or CASA, in the list of examples, a judge's protective order might address. The amendment also adds to the list of examples for such protective orders the possibility that a judge might allow the child's deposition to be taken with a service or therapy animal present. Number of advocates testified on behalf of the bill, including the Nebraska Alliance for Child Advocacy Centers, Project Harmony, and the CASA Association. Criminal Defense Attorneys Association testified in opposition. The bill advanced from the Judiciary Committee on a vote of

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5-1 with two members present and not voting. On behalf of the committee, again, I ask for your green vote on AM438. [LB589]

PRESIDENT FOLEY: Thank you, Senator Ebke. Debate is now open on LB589 and the pending committee amendments. Senator Vargas. [LB589]

SENATOR VARGAS: Thank you very much, Lieutenant Governor. I have not had an opportunity to review the amendment; believe it was recently filed right before lunch. I just want to refresh a little bit on some of my concerns. I have tremendous respect for Senator Crawford and the work that she does in bills and the work that she does in this specific space. My concerns with the premise of this has a lot to do with what we're changing in terms of the process and the assumptions that we make when we're thinking about these specific scenarios. We're talking about scenarios having to do with children. I completely understand the intent of making sure we're protecting children. I understand that intent very, very clearly. I do have concerns or worry when the...when we're talking about a child's protection and it comes into conflict at times with due process. I do need to read this. I think we've had this conversation about making sure we're looking at some of these things as they're coming up. I don't know if...where others are on this. I know that this was not necessarily widely agreed upon as something that we should push forward last time and there was still discussion and debate. But I just wanted to refresh people on where my concerns were that there are scenarios where there might be an individual, there might be a child where there might have been trauma, but I had asked and I'm assuming, because this is what is appropriate, that there will be some more information on that. We're making big decisions here, at least when we're in juvenile justice, or we're making decisions here in terms of child welfare, we collect a tremendous amount of data that then support policy decisions and then program integrity decisions to then ensure we're doing things internally as best as possible when we're talking about changing due process. And again, my main concerns...I'm going to read part of Douglas County Public Defender Thomas Riley that LB589, even as amended with the previous AM1674, now this doesn't take into account this current amendment, limits the ability of defense attorneys to protect their client's right to a fair trial and guarantee their constitutional right to be able to defend themselves against their accusers. It goes on to talk about research has shown that children are capable of lying, even about sexual assaults and can have their memories manipulated by adults to lead them to believe they have been inappropriately touched. It is our experience that this can and does occur on occasion. In a practical matter, the interview's purpose, this pretrial...this specific stage interview purpose is not to investigate possible...is not to investigate possible inconsistencies by the child to implausible claims or possibilities of suggestion by outside parties, the purpose, as we understand it, is to merely ask the child about the allegations in a neutral setting. These are trained lawyers that are required by law to continue to do CLEs, to continue to be supervised by the Bar Association. Obviously, they'd have to be certified lawyers, and I do not like the assumption that we're making that there is inherently something about these individuals that are causing trauma on purpose unless we

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have data or reasoning that is telling that this is happening on a day-to-day basis where we are really having to step in or else there's other avenues with training or making sure those specific individuals that are maybe the bad actors in this scenario are being reprimanded or suspended or in some other way, shape or form held accountable to. And if that's happening, I think we should go down that route. But to then put another step in because we want to make sure to generalize on how we better protect a child, I do have concerns about that avenue of going down that route... [LB589]

PRESIDENT FOLEY: One minute. [LB589]

SENATOR VARGAS: ...when we do not have a clear reason for going down this route right now. I've said this in other conversations, and I don't mean to belabor it, but I do think there is such a thing as a proportional policy response to a problem. I believe that there's a proportional policy response to a problem, and I don't yet believe that this is at a proportional policy response to the inherent problem that we're seeing. I look forward to learning about this specific amendment and exactly how it addresses the concerns. But fundamentally, I'm still against LB589 underlying because it's making an assumption that people are purposely trying to not...to pause, harm, or trauma; when in reality, we're trying to make sure there's a fair and free process where people get the due process that's needed on both sides, and we are trying to not get to a trial, that is when...and to potentially create some more trauma. [LB589]

PRESIDENT FOLEY: Time, Senator. [LB589]

SENATOR VARGAS: Thank you very much. [LB589]

PRESIDENT FOLEY: Thank you, Senator Vargas. Senator Crawford. [LB589]

SENATOR CRAWFORD: Thank you, Mr. Lieutenant Governor. I want to clear up any confusion about the amendment right now. I just posted a copy of the amendment we've been discussing in the other six hours of debate on LB589 on Select File, just on the off chance that we would not have a chance to get it added on General File, that it would be there sitting there first thing in line on Select File. And assuming, if AM1682 is appropriately added to LB589 here during General File then that will just be pulled. It's not new or a new tact or a new direction, it's just a backup plan just to make sure that we get those changes that are important added to LB589. And those changes are to really focus, again, on the protections for the children. And this was a conversation that we had with defense attorneys over the interim during this process before we brought the bill. And we knew that we might not get to a place where we all agreed about all parts of the bill, but putting the protections in place was one place where there was agreement that that was something that made sense. And even some people who are opposing the bill were

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in support of those protections also. And I just want to say in response to the letter from Tom Riley, one of his concerns about the protections is the scope protection. And, colleagues, as I said before, that is actually a recommendation also of the American Bar Association. And so having the defendant not being in the room is a critical protection that we see over and over in multiple states and in multiple recommendations of how to make this process one that is less traumatic for the children and less...and more likely to get results that actually match and that where the people are able to recall and answer truthfully, as opposed to being in a situation where intimidation may prevent them from doing so. Or what we have seen in some of the research is that intimidation or trauma simply prevents people from continuing on in the situation and that's very unfortunate, or from being willing to start the situation in the first place, start with the case in the first place. So again, no new content. The amendment that you saw that was just filed is just putting that amendment on Select File just in case it doesn't get added here in General File so it will be sitting there to make sure it does get added on Select File. And I ask those of you who are supporters of these protections to hang with us and this is up on the board because we had 33 people commit to vote for cloture. And so I ask you to stick with your commitment, we'll work hard to get that amendment put on here in General File, but if it does not, it is first in line on Select File to get added. And that, again, will make sure that we're really focusing this bill on those key protections in place and those protections are really commonsense protections and ones that it will be up to the judge to determine which set of those protections makes sense and the bill...the language indicates the judge can consider the age and emotional maturity and other conditions that are appropriate in that consideration. And that's why it's very critical to keep the language in there, to leave that flexibility in there so it's possible for a judge to react to a situation and recognize that there would be different, perhaps, standards that would make sense in different kinds of these cases. But to recognize that that is a responsibility of the judge, in this case, to consider what protections are necessary is an important part of the bill and the main... [LB589]

PRESIDENT FOLEY: One minute. [LB589]

SENATOR CRAWFORD: ...Thank you, Mr. President...the main substantial component of the bill now is to do so. And again, this is only in cases where a child is a victim or a witness...alleged victim, alleged witness of a violent crime. And so we're really focusing just on this part of the process. And we've had confirmation from other people, other judges, and from a judge and from people in other roles in the court process that this process of putting it...filing a motion for a deposition is already a part of that process. And so we're, again, we're just adding a consideration of the fact that the child has had a forensic exam and then a forensic interview, and then we are having this opportunity for the judge. And as a body, we're telling the judge certain protections that we think are valuable and asking them to consider those protections when the deposition moves forward. Thank you, Mr. President. [LB589]

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PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Chambers. [LB589]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I would like to ask Senator Crawford a question or two. [LB589]

PRESIDENT FOLEY: Senator Crawford, would you yield, please? [LB589]

SENATOR CRAWFORD: Yes. [LB589]

SENATOR CHAMBERS: Senator Crawford, you continually...and I think those who support the bill do this...talk about they want to avoid the child being intimidated and harassed, I think. Is that true? [LB589]

SENATOR CRAWFORD: We talk about trying to prevent trauma and intimidation. [LB589]

SENATOR CHAMBERS: Well, the trauma would be produced by what? [LB589]

SENATOR CRAWFORD: By being in a situation where they would not have some of the protections we're talking about, like being in a deposition with the defendant in the room at that time, that's a good example. [LB589]

SENATOR CHAMBERS: What else? [LB589]

SENATOR CRAWFORD: So that would be one. It would be a deposition that would go into questions that were not relevant for facts of the case, but questions intended to cause someone to be...to be intimidated like questions about past sexual history, if that's not relevant to the facts of the case, or past drug abuse, or alcohol use. [LB589]

SENATOR CHAMBERS: Okay. Now, what is the top age limit currently in the bill? [LB589]

SENATOR CRAWFORD: It is 18. [LB589]

SENATOR CHAMBERS: So 18-year-olds are going to be intimidated and traumatized by having questions put to them? [LB589]

SENATOR CRAWFORD: Yes. [LB589]

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SENATOR CHAMBERS: Adults...it could happen to adults too, couldn't it? [LB589]

SENATOR CRAWFORD: It could. And, in fact, in many states this pretrial discovery deposition is not even allowed for adults. [LB589]

SENATOR CHAMBERS: Well, let me ask you this. Have you heard any cases where children had been coached, and even on the stand when they got there they gave false testimony. [LB589]

SENATOR CRAWFORD: I believe that that happens, and so the issue is... [LB589]

SENATOR CHAMBERS: Well, I saw (inaudible) folks, excuse me, go ahead. [LB589]

SENATOR CRAWFORD: The issue is, how to best address that. And part of the issue here is to try to make sure that if there is a deposition that is necessary that there are protections in place to make sure that you have a situation where the child can answer. [LB589]

SENATOR CHAMBERS: If the defendant is not in the room, are you willing to say that the prosecutor shall not be in the room also and it will only be this so-called professional questioner and there will be no coaching, no feeding of questions by the police or the prosecutors so it will be more like a back-and-forth with the child and the questioner. Are you willing to do it that way? [LB589]

SENATOR CRAWFORD: Are...what...is... [LB589]

SENATOR CHAMBERS: Yes or no. [LB589]

SENATOR CRAWFORD: Was the question...process you're talking...the deposition process? [LB589]

SENATOR CHAMBERS: Yes. [LB589]

SENATOR CRAWFORD: So, the deposition process, right now, there is not another attorney in there for the child. The prosecutor is in there now. The prosecuting attorney is the one who would be asking the questions. [LB589]

SENATOR CHAMBERS: I thought that it was supposed to be this matter where this professional individual is going to conduct the interview. [LB589]

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SENATOR CRAWFORD: That's the forensic interview that happens before this discovery deposition process. [LB589]

SENATOR CHAMBERS: So then the prosecutor is allowed to get the first crack at the child and there can be coaching and all the other things that may occur prior to the deposition being taken. Is that true? [LB589]

SENATOR CRAWFORD: Um... [LB589]

SENATOR CHAMBERS: It can occur, can't it? [LB589]

SENATOR CRAWFORD: That a prosecutor would have a chance to talk with the child? [LB589]

SENATOR CHAMBERS: Yes, and coach the child on how to answer questions when he or she goes to the deposition. [LB589]

SENATOR CRAWFORD: I'm not sure how much of an opportunity the prosecutor has to talk to the child before the deposition. [LB589]

PRESIDENT FOLEY: One minute. [LB589]

SENATOR CHAMBERS: At the deposition, will the police and the prosecutor be allowed to be present at the deposition? [LB589]

SENATOR CRAWFORD: It is not my understanding that the police will be present at a deposition. [LB589]

SENATOR CHAMBERS: Would the prosecutor? [LB589]

SENATOR CRAWFORD: I believe a prosecutor is at the deposition. [LB589]

SENATOR CHAMBERS: Are you willing to eliminate the other "side" just like you want the one who provide the defense to not be there? [LB589]

SENATOR CRAWFORD: In a deposition? [LB589]

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SENATOR CHAMBERS: Yes. In other words, is it to be a mini-trial, a small trial where you have the prosecutor questioning and the defense attorney questioning, or is it to be one-sided? Is it to be a... [LB589]

SENATOR CRAWFORD: That the discovery deposition is generally requested by a prosecutor and it's in order to ask the question the prosecutor would like to ask in that situation. Excuse me, is generally requested by the defense attorney... [LB589]

PRESIDENT FOLEY: Time, Senators. Thank you, Senator Chambers and Senator Crawford. Senator Vargas. [LB589]

SENATOR VARGAS: Thank you very much, Lieutenant Governor. I have a question for Senator Crawford if she will yield. [LB589]

PRESIDENT FOLEY: Senator Crawford, would you yield, please? [LB589]

SENATOR CRAWFORD: Yes. [LB589]

SENATOR VARGAS: Thank you. My question is, I know you...earlier you were saying around the judges and that they have...we're enabling them to have certain abilities for additional protections. My understanding is that...well, here's a better question: Are judges currently able to put in some more protections for children in this; do they have the discretion to do some of this already? [LB589]

SENATOR CRAWFORD: A judge may have discretion...a judge may put in some of these protections. [LB589]

SENATOR VARGAS: Currently? [LB589]

SENATOR CRAWFORD: Currently. The purpose of the statute is to indicate to judges that these are the kinds of protections that we think are important and to...and while, currently, it just says...it's something they could possibly do. The language in the bill says they shall consider which of these protections for a child. So it puts the impetus on the judge to say these protections are necessary, or the judge to say they're not necessary in this case. [LB589]

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SENATOR VARGAS: So we are giving judges...they already currently have the ability to have these protections, and now we're including language, "shall", to require them to do this... [LB589]

SENATOR CRAWFORD: It is...and that the purpose of that again is to indicate as a legislative body that this (inaudible) something that we intentionally want them to consider, not that it's just something that they could...that is in their ability to do so, we're telling them when it is a child that is being deposed, we want you to consider protections such as these. [LB589]

SENATOR VARGAS: Okay, but they are...they are judges that have been lawyers and they already have the ability to consider this and have the experience on whether or not it's the best scenario to consider it. So why would we be adding more language to then require them to do it if they already have the ability to do it? [LB589]

SENATOR CRAWFORD: Well, they have no specific guidance on the kinds of protections to consider. It's just true that they have the ability to do a protective order just in general. So one of the functions here is to add what we know for as best practices, research best practices, ask the kind of protections for them to consider when it is a child that is coming forward for deposition. Generally, they could offer protective order for a deposition, but we're telling them in this case, when it is a child, these are the kinds of protections that we feel are appropriate and urging them to consider these kinds of protections. [LB589]

SENATOR VARGAS: Colleagues, I'm...the reason I'm asking the question is to get back to this fundamental piece--if judges are already capable of doing this and we believe in the current court system and that there are internal program mechanisms, there are internal things that we can do to support judges, and judges have the...the...both the background and experience to then decide when this is needed, then why are we creating an additional language to then require them to do it if there is an overwhelming sort of pieces of data and information telling us that there's an existing problem. If we're creating this language and putting it in, although they're able to already do it, I have some tremendous concerns that we're making assumptions on what they should be doing when they already have the ability to do this. I don't believe...and I'll have to look back, but I know that we've had this conversation on whether or not certain courts already have the ability to do something or versus when we have to make them do something and we...our compelling reason for doing that usually is grounded in there is a flood of information that's telling us that there is an inherent problem in the process, inherent problem in public policy. And we have not yet heard an inherent problem that is so generalized that we need to address it. Sometimes we have bills where... [LB589]

PRESIDENT FOLEY: One minute. [LB589]

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SENATOR VARGAS: ...we're trying to get ahead of problems; with cryptocurrency, we're trying to get ahead of problems. Sometimes we have problems where they're overwhelmingly rampant. And this is a scenario where not only is it not overly rampant, but we are seeing stories but not enough information telling us that we need to do something. I know I'm beating a dead horse when I say that when we're looking at juvenile justice work right now, we're collecting information to make sure we can prove that there's a problem to solve; when we're looking at what are some of the policy changes, we're grounding in that information. And as a result, we can make very, very clear data-driven decisions and policy-related decisions. So if we are hearing from the Defense Attorneys Association and our elected public defender...my elected public defender in Omaha telling me that there's inherently a problem with doing this... [LB589]

PRESIDENT FOLEY: Time, Senator. [LB589]

SENATOR VARGAS: ...sorry, did you say something? [LB589]

PRESIDENT FOLEY: That's time, Senator. [LB589]

SENATOR VARGAS: Okay, thank you very much, Lieutenant Governor. [LB589]

PRESIDENT FOLEY: Thank you, Senator Vargas. Senator Pansing Brooks. [LB589]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor... [LB589]

PRESIDENT FOLEY: Excuse me, Senator; the Clerk has an announcement first. Sorry. [LB589]

CLERK: Excuse me, Senator. Health Committee will have an Exec Session immediately in 2022. And, Mr. President, just a few items: Senator Brasch amendment to LB1069; Senator Bostelman to LB901; two new study resolutions (Re LR373 and LR374.) Thank you, Mr. President. (Legislative Journal pages 1153-1157.) [LB1069 LB901 LR373 LR374]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Pansing Brooks, you're recognized. [LB589]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. I'm standing to, again, raise questions about this. We've had...I think we've had almost six hours this year because of the priority issue that intervened, but, again, I appreciate wholly and sincerely the work of the CACs, their work is truly valuable. And what I am concerned is that this is a difficult issue. I also

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appreciate Senator Crawford's passion, but this is a difficult issue where we have to weigh protecting children and then also giving extra powers and ability to the prosecutors. We have to weigh out the Sixth Amendment to...and the right to confront a witness versus trying to protect the children. Now if there's an issue where the children are being unreasonably badgered or treated unreasonably by a defense counsel, then there are all sorts of means within the law for the prosecutor to go to the court and say that's unreasonable, this child is getting badgered, and, in fact, they have a duty...an ethical duty to do so. And so I'd like to ask Senator Crawford a question if she'll yield please. [LB589]

PRESIDENT FOLEY: Senator Crawford, will you yield, please? [LB589]

SENATOR CRAWFORD: Yes. [LB589]

SENATOR PANSING BROOKS: Senator Crawford, thank you. I was wondering, what is the issue that you feel this most relates to? What is it you are trying to solve with this? [LB589]

SENATOR CRAWFORD: What we have heard the most from the advocates and from the people who have been through this process themselves, who came to testify and sent comments to testify was the fact that they felt very vulnerable in the deposition process, that it was very traumatic. And, in fact, some of the...one of the women talked about the fact...and she was actually in this when she was 18, that it was...when she was in the court, there was a judge there and there was a sense of protection there, but being in this room without any judge and with the defendant present was a very traumatic process. And there's lots of research talking about the importance of reducing trauma and the fact that the forensic interview and the way the forensic interview is conducted is an important part of making sure you're getting truthful statements. And so the real... [LB589]

SENATOR PANSING BROOKS: Thank you, Senator...thank you... [LB589]

SENATOR CRAWFORD: ...concern is about the trauma, the deposition and if a deposition is necessary... [LB589]

SENATOR PANSING BROOKS: Thank you. [LB589]

SENATOR CRAWFORD: ...trying to make sure those protections. [LB589]

SENATOR PANSING BROOKS: Thank you, Senator Crawford. So, um, but you are aware that there are laws and that there are ways to protect the child if there's badgering or anything that's

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going on. So, we're hearing some anecdotal evidence from some people...maybe we should have an interim study to determine whether or not this is really happening across the state. If there is incredible badgering by defense counsel of children, and that if the courts aren't assuming the powers that they have to stop and hinder that kind of inappropriate action or badgering by defense counsel against a child. Could you talk about that? What about an interim study?
[LB589]

SENATOR CRAWFORD: Well, I think there are ample discussions about the importance of preventing the trauma. And these steps of putting the protections in place still probably leaves the necessity of addressing the issue of badgering or inappropriate behavior on the part of...
[LB589]

PRESIDENT FOLEY: One minute. [LB589]

SENATOR CRAWFORD: ...a defense attorney also. So I think this would be an important step regardless of whether or not... [LB589]

SENATOR PANSING BROOKS: Okay. [LB589]

SENATOR CRAWFORD: ...you had a study. [LB589]

SENATOR PANSING BROOKS: Okay, thank you very much, Senator Crawford. So this bill does both too much and not enough. It does limit the deposition of any child witness 18 years or younger regardless if the child is a victim or merely a witness. So we have a couple of cases, a 17-year-old eye witness did give a videotaped interview and...that would not necessarily be traumatized and is unable to be deposed by the other side to determine if whether or not the correct defendant is being arrested in this case. So...and I'll have more to say on that. Thank you very much for your time, Senator Crawford. [LB589]

PRESIDENT FOLEY: Thank you, Senators Pansing Brooks and Crawford. Senator Krist.
[LB589]

SENATOR KRIST: Thank you, Mr. President; good afternoon, colleagues; good afternoon, Nebraska. I stand in opposition of LB589. I'll reiterate what I said the first time and the second time that we talked about the subject matter. I'm one of the two no votes coming out of committee. I do believe that when I listen to folks who are experts in the field, we have one here in this Chamber who works in the juvenile area, it is his career. He understands juvenile justice. And I can tell you that there's probably nobody in this Chamber who has worked harder, given

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my affiliation with juvenile detention alternative initiative, the rights of children and the ability for us to reduce detention across the state and treat children like children. However, there are two sides of this argument. I'm going to tell you a story. This is a true story. I can substantiate it to anyone who is interested. There was a person, a young person, of limited IQ, I would call them moderate or not quite moderate in terms of disability, that had just gone through a good touch/bad touch class and within the next few weeks made some statements, some allegations against a sexual abuse of a cousin. Now, without the fact that a defense attorney and a very, very, very smart young female police lieutenant going to the aid of that young man who was innocent in this area, there would have been only one side of the story told. And that's given the situation we have today. So my argument is, that's already in place. We're already allowing for that forensic information and for the defense and the prosecution to get all the information that they need. There are two sides to every story. Now, those of you who know me well know that I would string the rope if someone did something to a child. I would get there myself and make that statement known that that person needs to be put away, needs to go through the criminal system, needs to be punished for what they've done. But the last I checked, you're innocent until proven guilty; unless you're subject to UCMJ which is a whole different dynamic. So please listen to what we're doing. We're telling a judge what to do. Okay. Judicial independence and judicial discretion is being interfered with, number one; number two, we're not allowing the defense to have equal time at the table in the situation where there are two sides of the story. This is a solution looking for a problem. We don't have a problem in the state right now. I honestly believe that if you listen to the defense attorneys and you listen to their comments and their suggestions and their criticism about what we're trying to do here and really weigh it out. The last thing I'll say about this is a cloture vote is a vote for this bill. This is one of those situations where if you vote for cloture, you are voting for the bill, because I'm sure Senator Crawford had 25 in this room that believe it's all about the kids. And I implore you, realize that there are two sides of this story. Thank you, Mr. President. [LB589]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Schumacher. [LB589]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. We're dealing with serious matters; felonies that people can go to jail for most of their life. Those felonies can be 16, 17, 18 years old, they can be adults. This particular piece of legislation limits the ability to get at the truth. This piece of information is lopsided on the scales of justice. The police can talk to the witnesses all they want. The social workers can talk to the witnesses and the victim all they want. The prosecutor can talk to the victim and the witnesses all they want. The video interviewer can talk to the witnesses and the victim all they want. And any conversation, particularly with a child, can be shaped. The defense attorney and the accused get to talk only through a deposition, unless they want to go through the expense and the additional stress on a child that having to appear in a court situation. The truth is important and people lie. We have a situation where you'd have somebody 16 or 17 years old accused of some felony and they

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happen to be on the outs with a clique or a gang. And the only way through that situation to the truth is by a deposition that is responsibly conducted. A deposition which if you have some off-the-wall defense attorney, which we haven't seen any transcript of an off-the-wall defense attorney presented here, but if you have some the prosecutor can walk out of that deposition room with the child over to the judge and say--make him stop, under the current law. People lie. This isn't talking about a 12-year-old or a 3-year-old or a 5-year-old, this is 18 years old or younger, well into the age of cliques and liars and gangs. And we are instructing a judge to have hoops to go through for the defense. We are telling a judge that our judgment in this room is better than his or hers? There's been no demonstrated need for this legislation and this infringement on the rights of the accused or this tipping of the scales of justice clearly in favor of one side. And what makes it so bad is we have exaggerated beyond belief the penalties that people can face and we have admitted evidence and we've done all kinds of things that ease the route to a conviction so people are incarcerated for long periods of time. [LB589]

PRESIDENT FOLEY: One minute. [LB589]

SENATOR SCHUMACHER: This is not the kind of legislation that has been demonstrated to be necessary, nor does it further the cause of justice. And just what if the child involved was an innocent 16-year-old on the wrong side of the clique? Think of that. What if that was your child or grandchild on the wrong side of the clique? This is not needed; the case has not been made that there is any big malfunction in the present system. And as such, we should not diminish the presumption of innocence and the right of confrontation. Thank you. [LB589]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Crawford. [LB589]

SENATOR CRAWFORD: Thank you, Mr. Lieutenant Governor. Just want to clarify a few points. The bill, as amended, as soon as we dispense with the Judiciary...the Judiciary Committee amendments are simply allowing to make sure that a comfort animal can be in the room. And so that's something that I hope we'll be able to vote on here soon while we're still debating this bill. Then the amendment that you'll see at that time is an amendment that I've been talking about most of the time on this bill. And that amendment is one that, again, does not take away the deposition. The amendment does say that a judge can consider if a forensic interview has been done in determining whether to offer a deposition. But it is not have any burden of proof or any standard that has to be met, it simply puts in statute that the existence of a forensic interview can be considered. And then the emphasis of the bill at that time then is to put in to ask the judge to consider some of these protections in place. Those protections are not in any way designed to get in the way of justice; they're designed to try to make sure that the deposition process is one that can be effective and less traumatic. There are comments and recommendations that are part of the recommendations by the American Bar Association, by other studies of trying to figure out

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what is a middle ground. Colleagues, there are many scholars who argue that you should not even have depositions, these discovery depositions; this is before the trial. And there are other states...most states that do not allow this deposition to take place. We're trying to say, okay, the deposition is sometimes important, there are times when you need to make sure that you are having an opportunity to ask questions or dig into a situation. And we also indicate that when the judge is considering what those protective orders should be, that they are perfectly able to consider the age and the emotional and maturity of that child. And there are standards in place to consider. And we're telling the judge this matters. This also provides an opportunity for people in that case making the appeal and in terms of what those standards should be for a deposition to know that these are points that can be brought up and be considered. And so, again, the Judiciary Committee amendments are just adding the ability to talk about the fact that a comfort animal can be there. Don't think there's probably too much controversy about that amendment itself. So hopefully we'll vote on that soon. And then you'll...and the other amendment that is on General File is the one that we've been discussing for about six hours now, a little over six hours now, which, again, says that it's critical that the judge consider what protections may be necessary and the protections are in that deposition. It does not remove the defense attorney. It is...the protections would be necessary in that discovery deposition. And they're protections that should help the process be even a more effective one in terms of trying to make sure that the questions are asked and that it's possible for the truth to come out. Now, there is no one in that deposition right now that is particularly emphasized...that represents the child. And so putting these protections in place is part of what's trying to create that situation where there is more attention to what concerns need to be in place to protect the child in that situation. Thank you, Mr. President. [LB589]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Chambers. [LB589]

SENATOR CHAMBERS: Thank you, Mr. President. I would like to ask Senator Crawford a question. [LB589]

PRESIDENT FOLEY: Senator Crawford, would you yield, please? [LB589]

SENATOR CRAWFORD: Yes. [LB589]

SENATOR CHAMBERS: Senator Crawford, we're talking about the deposition. [LB589]

SENATOR CRAWFORD: Correct. [LB589]

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SENATOR CHAMBERS: Who is going to question this child under your proposal? Who will do the actual questioning? [LB589]

SENATOR CRAWFORD: In the discovery deposition, it's the party that files for the discovery deposition. Now, either party could file for a deposition, but in practice it's more likely to be the defense attorney. [LB589]

SENATOR CHAMBERS: Let me ask you this, why do you talk about Project Harmony and the people there who are trained to question children; why are they mentioned? [LB589]

SENATOR CRAWFORD: Because this, LB589, these protections and considerations only apply to children who have been through a forensic interview process. [LB589]

SENATOR CHAMBERS: Well, what are these people from Project Harmony there for? [LB589]

SENATOR CRAWFORD: They are there...they are part of a team process that we've created as a statute here to try to make sure that as soon as the child...as soon as there is an allegation, as soon as the child has made a case that something has happened or they've seen something that they get pulled into a situation where they're able to have a child-appropriate questions asked and that gets video taped for all sides of the case to review. [LB589]

SENATOR CHAMBERS: And the police can be present at that gathering...or whatever you want to call it. Isn't that true? [LB589]

SENATOR CRAWFORD: Well, they're not...they're not in the room questioning the child, but this forensic interview replaces what would normally happen as a police interview and what would normally happen with Department of Health and Human Services. So instead of having them be interviewed by police and then be interviewed by the Department of Health and Human Services, the idea is to try to have a child-friendly interview at the forensic center that replaces both of those other interviews. [LB589]

SENATOR CHAMBERS: Is there anything in your bill that puts specific requirements with reference to that forensic interview? [LB589]

SENATOR CRAWFORD: No, this bill focuses on the discovery deposition. [LB589]

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SENATOR CHAMBERS: So it's still one-sided. There could be coaching; there could be improper influence on the child, but you're not worried about that happening are you? [LB589]

SENATOR CRAWFORD: This focuses on the discovery deposition part... [LB589]

SENATOR CHAMBERS: I know. [LB589]

SENATOR CRAWFORD: Right. [LB589]

SENATOR CHAMBERS: But I'm talking about...oh, that's all I will ask you. Members of the Legislature, you have some advocacy groups who have managed to inject themselves into court proceedings. Look at the list of them. They are not trained in the law. As Senator Wayne has pointed out, there are things that people like that can do which an attorney could never do. So when you are talking about what Senator Crawford is bringing to you, it's an 18-year-old person also. The 18-year-old person could be...let me ask questions as we go along so that I won't misstate what she's trying to do. This...does this bill relate only to witnesses or could it relate to the victim also? [LB589]

SENATOR CRAWFORD: It relates to victims and witnesses who have been through the forensic interview process. [LB589]

SENATOR CHAMBERS: So the victim can be 18 years old. [LB589]

SENATOR CRAWFORD: Yes. [LB589]

SENATOR CHAMBERS: And the witnesses can be 18 years old and be protected by what you're doing here. Correct? [LB589]

SENATOR CRAWFORD: They could have those protections considered for the deposition. [LB589]

SENATOR CHAMBERS: But it goes as high as somebody 18 years old. Correct? [LB589]

SENATOR CRAWFORD: Yes. [LB589]

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SENATOR CHAMBERS: And you have been convinced by these advocacy groups that these 18-year-old witnesses or even victims are so delicate that they would be badgered to the point where they are traumatized? [LB589]

SENATOR CRAWFORD: Not all 18-year-olds, but I think part of what goes on sometimes is there is grooming and there is sometimes situations where someone who is in a situation where there might... [LB589]

PRESIDENT FOLEY: One minute. [LB589]

SENATOR CRAWFORD: ...be developmental disabilities, emotional disabilities where they would be... [LB589]

SENATOR CHAMBERS: And there are cases where people may be falsely accused also. [LB589]

SENATOR CRAWFORD: Yes. [LB589]

SENATOR CHAMBERS: And an 18-year-old person could be doing the false accusing. Correct? [LB589]

SENATOR CRAWFORD: Could be, yeah. [LB589]

SENATOR CHAMBERS: And be shielded by this bill, correct? [LB589]

SENATOR CRAWFORD: This doesn't shield them from having a deposition at all. It puts protections in place to try to require that there's attention to that age and what protections would be necessary for a given age. [LB589]

SENATOR CHAMBERS: Well, we'll have plenty of time to discuss the things I'm interested in. I was trying to do it by question and answer, but I won't do that. This is a bill that is designed to overturn a system that has been in place from...and this is an exaggeration, hyperbole, time immemorial, it has worked, and now these advocacy people who are not trained in the law want to alter the legal system itself. They want to change the legal system in a fundamental way... [LB589]

PRESIDENT FOLEY: Time, Senator. [LB589]

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SENATOR CHAMBERS: ...without showing a need for it. Thank you, Mr. President. [LB589]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Wayne. [LB589]

SENATOR WAYNE: Thank you, Mr. President. I'm not going to speak very long on this bill. I will try something new by allowing Senator Chambers to have my time, so when it comes to my bill he will have talked for that portion here, so we're going to see if this works. But I'd like to yield the rest of my time to Senator Chambers. [LB589]

PRESIDENT FOLEY: Senator Chambers, you're yielded 4:30. [LB589]

SENATOR CHAMBERS: Mr. President, members of the Legislature, this is a bill where we need Senator Wayne's voice more than I need time. I would like to ask Senator Wayne a question. [LB589]

PRESIDENT FOLEY: Senator Wayne, would you yield to a question? [LB589]

SENATOR WAYNE: Yes. [LB589]

SENATOR CHAMBERS: Senator Wayne, I don't see a bill of yours on the agenda, maybe I missed...is there one on here of yours? [LB589]

SENATOR WAYNE: Not today, sir. [LB589]

SENATOR CHAMBERS: Well, tomorrow is not promised to us, is it? [LB589]

SENATOR WAYNE: No, sir. [LB589]

SENATOR CHAMBERS: So we should do today what is before us to do on this day, would you agree? [LB589]

SENATOR WAYNE: Yes, wise one. [LB589]

SENATOR CHAMBERS: And the reason I'm doing this, you do have expertise, many things are being said which have no weight or merit whatsoever. I do not practice law; I read a lot of cases. I'm aware of how these groups like CASA and others have managed to get themselves involved

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in the system, but they are trying with these changes to alter the system in a way that is drastic, that is radical, and judges are trained. Senator Crawford won't be aware of this, even though I brought it up, but the top prosecutor for the Attorney General was admonished by the judges of the Supreme Court about possible improper conduct, professional violation during a trial. But you and nobody else has come forth and said we ought to do away with the right of a prosecutor to give a closing argument because this one violated ethics in doing so. You go after the one who did it. The closing argument was not the problem. It was the arrogance of that prosecutor in the Attorney General's Office. You all have not shown a stream of instances where lawyers...where defense lawyers have violated anything. This was brought by advocacy groups...and I've been here a long time and I've listened to the way some of them present testimony to the Judiciary Committee. Oftentimes...they are highly emotional, not all of them, but when you begin to ask questions, then they act like they're going to cry or they go off on a different tangent to say, well, this judge may do this; this judge may do that; and sometimes you have to say, well, here's the question that I'm asking you because they are not interested in answering a question that will show that they are bringing arguments that are fallacious. They're not trained in the law. They don't care about the law. They care about what they are doing. There are some people who I am sure are employed among these groups. We ought not take away the constitutional rights of every person who is accused to have a fair chance throughout the process to have his or her case presented. Any time there is formal action taken...I had talked about an incident, and it was about Thomas More in a play called A Man for All Seasons, and it concluded with some people saying you'd let the devil go...they were talking about who should have benefit of law...Thomas More said: And go he should until he violates the law. And then they said--so you would give the devil benefit of law? Thomas More said: Yes, I would give the devil benefit of law for my own safety sake. You let something happen to them... [LB589]

PRESIDENT FOLEY: One minute. [LB589]

SENATOR CHAMBERS: ...or one of theirs, then they would be talking in the way that we're talking. They feel it's not going to happen to them. Anybody who is accused is guilty or they wouldn't be accused. And I and others have to look at the person who is being accused of some of the most horrendous crimes that are imaginable. There was one, it made national headlines, of child abuse widespread. And as the case proceeded, I was irate. Then they began to show evidence that could establish it that the children had been coached. They had been actually told what to say. They had been given dolls and told where to touch the doll and say that it happened to them and it was established that that's what had happened. Senator Crawford doesn't know about that. She's heard only one side. [LB589]

PRESIDENT FOLEY: Time, Senator. [LB589]

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SENATOR CHAMBERS: Thank you, Mr. President. [LB589]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Pansing Brooks. [LB589]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. Again, I want to reiterate how important the work of the CACs is. And certainly you all know of anybody in this body who has fought and is fighting for juvenile justice and for the welfare of our kids in the juvenile system it is I. So I just want to say that I also appreciate...I have many friends that are on the boards of the CACs and I truly appreciate the work done. The issue is, again, balancing protection of the kids versus Sixth Amendment right to confront. And I think that most of my friends who are on those boards have understood that issue as I've talked to them in the intervening...I don't know, it's been a month or so that we've gone...or two months that we've gone through this. Again, this is a very difficult issue because there can be a case where there's a house party and 20 kids are arrested and if they immediately...if the CAC immediately interviews all the witnesses and has one defendant, then the defense counsel can't even determine if they've arrested and have in custody the appropriate defendant because they can't even go after or talk to those other kids. That's not reasonable. It has extended it too far. That's why I'm suggesting doing an interim study or something like that. For somebody like Senator Schumacher who was a prosecutor to stand up and say this is an overreach should resonate with all of us that something is wrong here and it is an overreach. And I'd like to ask Senator Vargas...or Senator Wayne a question please. [LB589]

PRESIDENT FOLEY: Senator Wayne, would you yield to a question, please? [LB589]

SENATOR WAYNE: Yes. [LB589]

SENATOR PANSING BROOKS: Senator Wayne, off the mike we talked a little bit and we talked about some of the cases that you've had. Can you explain how...what would happen if they...and you have had a case similar to this where they've arrested a lot of kids; could you please explain that? [LB589]

SENATOR WAYNE: So what would happen is they would...if there's a forensic interview done, which, depending on how traumatic the event is, they are done, underneath the current proposal, I would have to set evidentiary hearings in front of, whether it's juvenile or a district court judge, and those hearings could average anywhere from half hour to an hour in the court system before I even get to take the deposition. So today, again, I called one of the courts that I work with on a regular basis, I'm 45 days out to have a block of hour...45 days out to whether somebody could be free or we could plea or we can get somebody into treatment or we could find out it was

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somebody else. Forty-five days is a long time for somebody to sit to basically get some answers to what's going on in their case. [LB589]

SENATOR PANSING BROOKS: Thank you, Senator Wayne. And can you tell me, I know that some will think that I'm being a dog with a bone, but there are kids without counsel in these instances, is that correct? And what... [LB589]

SENATOR WAYNE: Many cases. So before a kid is actually charged in court, if there is an interview done by a forensic doctor, particularly two I can think of, they will ask about their history, they're part of that conversation, if they're older, about 14 or 15, about drugs, about any crimes. And many times these kids don't think this is criminal in nature, so they will freely tell things that they're not supposed to tell. So, to your point about right for counsel, I think we're also having some other problems there when the statute says if they're brought into custody and charged... [LB589]

PRESIDENT FOLEY: One minute. [LB589]

SENATOR WAYNE: ...they should have right to counsel, particularly in Douglas County where that's not currently happening. [LB589]

SENATOR PANSING BROOKS: And so are there instances when they do admit to all sorts of extraneous acts that they then later get charged themselves? [LB589]

SENATOR WAYNE: I have had one...no, I've had two cases where it started off as a simple trespass and it turned into narcotic charges. [LB589]

SENATOR PANSING BROOKS: Thank you, Senator Wayne. So here is a further example. Number one, the kids don't have counsel, they have no idea what they're admitting to; they have no idea what's going on. And then we have this overreach where we are setting up precipitous barriers and precipitous walls that allow...that make it almost impossible, without going to court, for a defense counsel to be able to represent and protect their clients. Thank you, Mr. Lieutenant Governor. [LB589]

PRESIDENT FOLEY: Thanks, Senator Pansing Brooks. Senator Vargas, you're recognized. This is your third opportunity, Senator. [LB589]

SENATOR VARGAS: Colleagues, I think this is one of these issues that I know then there's will to do everything we can to protect children. We do that in many other cases. And we do

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everything we can to study and identify the root problems, the underlying factors to issues. I don't say that...I say this more because that's what my mind thinks. It really does, my mind thinks very much and what are the underlying factors to what we're trying to solve. And we have to prove that there are many underlying factors to an issue and that the best policy solution, not a policy solution is what we're putting forward. And I'm not yet convinced that this is the best policy solution to ensuring that a system...or one part of the system that judges have the ability to do something that children are protected. And part of that, again, lives in we're not seeing enough compelling evidence in both quantity...I would say in quantity, because we want to make sure there is a real issue, and I think we have heard stories and the stories lead me to believe that our effort should be best focused in on what is happening in those scenarios. Is a lawyer or is somebody that is a defense attorney not doing their job? And if it is an individual group of individuals, we need to support everything we can for more training, accountability on those individuals. If judges don't understand their ability to do these protections, maybe there's some additional training or conversations we need to have with the courts, with Chief Justice on ensuring that they understand what they can and cannot do to better protect children. What our natural first step shouldn't be, we need to tell the judges what to do in this instance when unless we have compelling evidence that's telling us that we are solving the underlying problem. And because I'm still not fully clear on the underlying problem and the pervasiveness of what we're trying to solve, there are other policy and program solutions that we can entertain that would do a better job towards ensuring that this process is more protective of children. And also, we should be doing everything we can to collect the information to identify that the root problem actually exists. That's not an unheard of policy recommendation. We have that. I mention this in juvenile justice; we specifically created systems to collect data in policy to identify that a problem exists so that we can monitor and then make sure we're doing everything so we can protect children when it gets to that point. But we routinely debate here is, do we need to do something? Is it in the best interest of all parties, not just one party? And also, are we keeping sort of ahead of the game when we're talking about the best public policy solution. And because I'm hearing from the defense attorneys that there are not enough information that this is the most...the best and most appropriate policy solution, then I don't believe we should move forward on something that falls in that realm. I do want to, however, say that we should be studying this, we should be ensuring that these scenarios...what is happening at these child advocacy centers or we can better support them to do that. It can't and only doesn't exist in the laws that we pass. I am a firm believer of that because we had these conversations on at what point do we push something forward. I had a very big...I had a bill last year where we mandated in some way, shape, or form that the "shall" language that we would protect teenage mothers... [LB589]

PRESIDENT FOLEY: One minute. [LB589]

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SENATOR VARGAS: ...across the state of Nebraska and we would have policies at school board districts. We did a public records request and looked at all the data points and the discrepancies in policies across the state and we saw there was wild discrepancies in how the policies...some have policies or don't and what they do and do not do in terms of protecting teenage mothers. We did that to then identify the policy solution. I would...that is different if we are seeing that there is data supporting this policy solution. But I'm not yet convinced that this is leading us to the appropriate policy solution to solve this problem. And we're not alone. There are certified lawyers, the Defense Attorneys Association, Public Defender Tom Riley, and others that are doing this job, defending the public and want to make sure that due process is taken into account and we are keeping that intact because that is a constitutional right to individuals. We should be doing everything we possibly can to ensure that; that's what we do here. [LB589]

PRESIDENT FOLEY: Time, Senator. [LB589]

SENATOR VARGAS: Thank you. [LB589]

PRESIDENT FOLEY: Thank you, Senator Vargas. Senator Chambers, you're recognized; your third opportunity. [LB589]

SENATOR CHAMBERS: Thank you, Mr. President. This bill starts out with the notion that there will be no deposition allowed. No request for a deposition shall be granted for a child 18 years of age or younger at the time of the request when such child has pursuant to Section 28-728 undergone a video-recorded forensic interview at a child advocacy center accredited to conduct such interview except by agreement of the parties or by approval of the court. So if they can hustle this child to the so-called forensic interview by a paid individual who works with the police, and that's what they do, then there will be a presumption that there should be no deposition allowed. There should be no deposition unless the parties agree. Well, the party that had the forensic interview is not going to agree...or may not agree, or the court would order it. Well, the court can order it now. This is designed to put obstacles in the path. They serve no legitimate legal purpose. The law's idea and goal is to get at the truth and this is designed to hinder and make obtaining the truth as difficult as possible. It should not simply slide across the floor because people are not interested. This kind of is what happened to Senator Pansing Brooks's bill about providing legal counsel for juveniles. People pretend that they have that concern, but they really don't. This was not...I'd like to ask Senator Crawford a question. [LB589]

PRESIDENT FOLEY: Senator Crawford, would you yield, please? [LB589]

SENATOR CRAWFORD: Yes. [LB589]

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SENATOR CHAMBERS: Senator Crawford, who provided the language for this bill? [LB589]

SENATOR CRAWFORD: This bill...actually I've been talking about the bill as amended, so we're going to be amending it and then taking out that "no deposition" language as soon as we get to this next amendment. [LB589]

SENATOR CHAMBERS: But who provided the language for the green copy? [LB589]

SENATOR CRAWFORD: Initially we were talking about the child advocacy centers were providing the language. [LB589]

SENATOR CHAMBERS: They're the one who put the green bill together, correct? [LB589]

SENATOR CRAWFORD: It's from Vermont, it's similar from Vermont. [LB589]

SENATOR CHAMBERS: And the bill would benefit and advance what they're trying to do with their accredited agencies, aren't they? They convinced... [LB589]

SENATOR CRAWFORD: Well, there's several other advocates for it as well. [LB589]

SENATOR CHAMBERS: But they put themselves right front and center in this bill. The forensic interview is to be conducted by one of these accredited agencies, isn't that true? [LB589]

SENATOR CRAWFORD: That's correct. [LB589]

SENATOR CHAMBERS: Who accredits the agency? [LB589]

SENATOR CRAWFORD: They have a national accrediting body and they're required also to have continuing education credits to remain accredited as well. [LB589]

SENATOR CHAMBERS: But that's not said in the bill. We don't know... [LB589]

SENATOR CRAWFORD: It is actually the statute that it references has that accreditation in it. So it's by reference those must be accredited centers. [LB589]

SENATOR CHAMBERS: You mean to tell me they mention these agencies? [LB589]

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SENATOR CRAWFORD: Pardon. [LB589]

SENATOR CHAMBERS: In the present statute, they mention these accredited groups? [LB589]

SENATOR CRAWFORD: In the statute that we reference, 28-728, at least in that area of statute, it does talk about the importance of an accredited CAC. So nobody can just go set up their own child advocacy center; they have to follow this accreditation. [LB589]

SENATOR CHAMBERS: And that statute tells what accreditation consists of. [LB589]

SENATOR CRAWFORD: Correct, um-hum. [LB589]

SENATOR CHAMBERS: Is Project Harmony one of those? [LB589]

SENATOR CRAWFORD: Yes. [LB589]

SENATOR CHAMBERS: And they've been mentioned a great deal. When you present this other amendment that you're talking about, much of what's in this green bill will be eliminated? [LB589]

SENATOR CRAWFORD: The burden of proof and that they can do no deposition... [LB589]

PRESIDENT FOLEY: One minute. [LB589]

SENATOR CRAWFORD: ...gets eliminated. And instead it just...it focuses on the protection components of the bill. [LB589]

SENATOR CHAMBERS: And this bill, the green copy, was patterned after legislation in a different state, is that correct? [LB589]

SENATOR CRAWFORD: Correct. [LB589]

SENATOR CHAMBERS: Are you aware that I voted against this bill in committee? [LB589]

SENATOR CRAWFORD: Yes. [LB589]

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SENATOR CHAMBERS: And I've been against it at every point where it was discussed. The reason I'm saying it, I don't want people to think that I ambushed you... [LB589]

SENATOR CRAWFORD: No. [LB589]

SENATOR CHAMBERS: ...by making it seem that I was for it then I suddenly turned against it. I have never been in favor of it. And I'm going to offer some motions just to have the opportunity to talk because there's a great deal that needs to be said about the law itself as it exists...the purpose of the law, not just this little segment. And there will be violations, ethical violations by lawyers, misconduct by judges. I have process complaints and had lawyers...not prosecuted...punished, disciplined... [LB589]

PRESIDENT FOLEY: Time, Senator. [LB589]

SENATOR CHAMBERS: One was a county attorney... [LB589]

PRESIDENT FOLEY: Time, Senator. [LB589]

SENATOR CHAMBERS: Oh, I'm sorry. Thank you, Mr. President. [LB589]

PRESIDENT FOLEY: Thank you, Senator Chambers and Senator Crawford. Senator Wayne. [LB589]

SENATOR WAYNE: Thank you, Mr. President. I want to back up and just remind the body of what the purpose of a deposition is and then I'll kind of walk through the arguments that we heard throughout this process and why I think there is some problems. The purpose of a deposition is a discovery tool that allows both sides to gain information and to dig a little more. Some attorneys call it the first bite at the apple. And because there are many questions you ask in a deposition that will pretty much be the exact same question you ask at trial. So as an attorney, I get to see the credibility; I get to see how the witness interacts. I get to see if the witness is sincere when there is tears, or if there has been a plea bargain with another prosecutor, if it's a criminal case, so they're a friendly witness of the prosecutor. I get to ask all those questions, under oath, which they have to tell, and then I get to review that discovery with my client to make a decision on whether to move forward with the case or maybe we plea because we believe that witness. And that is a huge, huge benefit to everything. But when we first start out, the main argument...if you go back and read the transcripts...was the trauma these individual children face by retelling their story. And I think it's important that a 12-year-old, a 8-year-old, a 6-year-old is treated the same as an 18-year-old underneath this current proposed legislation. Why that is

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important because if it was just the trauma of retelling the story, then why doesn't this bill address the unlimited amount of times the prosecutor and the police officer can ask those witnesses or victims over and over and over again. The only person who is limited, although it doesn't say it, but from a practical standpoint is the defense attorney or the attorney in a custody dispute or the attorney of a child...of another child. Because from a practical standpoint, I have a witness list, as a prosecutor, I can call that witness and go interview that witness multiple times as I want; so can law enforcement. They have, in fact, Douglas County prosecutors in almost...Lancaster...almost all the counties have some type of investigatory arm of their office to go interview more witnesses. That's just the nature of any criminal charge or sometimes custody cases as far as personal detectives. So the trauma is just limited to the defense counsel because as a courtesy and ethical rules, we don't go out and just pop up on witnesses. What we have to do is usually do a deposition because if I just interview a witness, it doesn't carry any weight. One, they can say they never told me that. Two, something happens to that witness, now I become a witness and I'm no longer my attorney because I have to maybe give some kind of testimony...no longer my client's attorney. So you want to do it in a formal setting where you can cross-examine, have the opportunity to cross-examine them for multiple reasons, which I'm going to get to here in a second if I have time. So the practicality of it is, the only person you're eliminating is defense counsel. So the trauma is still there every time that they talk to the law enforcement officer. Now going back to...a little bit farther into the other reason of why it's important is, to me, this is often a less strenuous... [LB589]

PRESIDENT FOLEY: One minute. [LB589]

SENATOR WAYNE: ...questions that are being asked than in court. You sit down...particularly in Douglas County, they do a very good job of making sure when it's a female sexual victim that they often have female defense counsels and a female court reporter and they sit in a room and have a conversation so that everybody can feel a little more comfortable as far as the victims' perspective. That determines whether we can move forward with the case. And many of the cases either settle or go to trial based off of that deposition. But the last point I want to mention, 18 versus 12 year olds versus everything else. Right now in juvenile law, as a matter of fact, I have to file once a day, a motion to even get the CD from Project Harmony. I have to file a specific motion to have a judge grant that. So we're adding another layer just to go back and interview them. But I am...if somebody would yield me just a little bit of time, I want to talk about what happens to a deposition at trial... [LB589]

PRESIDENT FOLEY: Time, Senator. Time, Senator. [LB589]

SENATOR WAYNE: ...of the substantive issues. Thank you. [LB589]

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PRESIDENT FOLEY: Thank you, Senator Wayne. (Visitors introduced.) Senator Geist. [LB589]

SENATOR GEIST: Question. [LB589]

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. Have you all voted who care to? There's been a request to place the house under call. The question is shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please. [LB589]

CLERK: 21 ayes, 2 nays to place the house under call. [LB589]

PRESIDENT FOLEY: The house is under call. Senators, please return to your desks and check in. The house is under call. All unauthorized personnel please leave the floor. The house is under call. Senators Hansen, Hilgers, Morfeld, Hughes, Bolz, Pansing Brooks, Bostelman, Blood, Chambers, Friesen, Groene, please check in. Waiting for Senators Hughes, Bolz, Hilgers, and Friesen, please return to the Chamber and check in. The house is under call. Senator Geist, when the members are here, it would be your option to accept call-in votes or roll call vote. Call-in votes are acceptable? Okay. Members, the question before the body is whether or not to cease debate. Senator Geist has authorized call-in votes. [LB589]

CLERK: Senator Scheer voting yes. Senator Bostelman voting yes. Senator Howard voting yes. Senator Watermeier voting yes. [LB589]

PRESIDENT FOLEY: Record, please. [LB589]

CLERK: 25 ayes, 6 nays to cease debate. [LB589]

PRESIDENT FOLEY: Debate does cease. We're still under call. Senator Ebke, you're recognized to close on the Judiciary Committee amendment. [LB589]

SENATOR EBKE: Thank you, Mr. President. We've talked about a lot of things. Just a reminder that the Judiciary Committee amendment mentions the word "CASA" it's a very technical change. And it allows for the use of service animals during the deposition process. Thank you, Mr. President. [LB589]

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PRESIDENT FOLEY: Thank you, Senator Ebke. Members, the question before the body is the adoption of the Judiciary Committee amendments, AM438. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB589]

CLERK: 25 ayes, 12 nays to adopt the committee amendments. The committee amendments are adopted. I raise the call. Continuing discussion on the bill...excuse me...Mr. Clerk. [LB589]

CLERK: Mr. President, then given Senator Crawford, as the principal introducer, her amendment would be considered next. Senator Crawford, AM1682. (Legislative Journal page 478.) [LB589]

PRESIDENT FOLEY: Senator Crawford. You're recognized to open on AM1682. [LB589]

SENATOR CRAWFORD: Thank you, Mr. President. This is AM1682, and as we've been discussing throughout the debate of the bill this amendment replaces...excuse me, this amendment strikes the original Section 1 and inserts the new section in its place. And so it is an amendment that replaces the part of the bill that we were discussing, discussing about it having a standard burden of proof. In this amendment now we are focusing on...really focusing on making sure that we're putting those protections in place when someone who is a child who is 3-18 years of age and are victim or witness in a case involving sexual abuse or serious physical abuse or neglect and have witnessed a violent crime or found in a drug endangered environment. And so now in this case with the bill we are now saying that when a child 18 years or younger at the time of the motion has pursuant undergone a video-recorded forensic interview at a child advocacy center that the court may grant a deposition of such a child upon a motion by a party to the case. And in determining whether to approve the taking of a deposition, the court shall consider the availability of the recorded statements of the child. And then, again, this amendment replaces what's in the original green copy and focuses on: upon granting a motion to depose a child 18 years of age or younger that they shall issue any protective order that justice requires to protect the child from emotional harm or distress, harassment, undue influence, or intimidation. And it lists the things that we've been discussing in terms of some of those protections. And those protections are that the deposition can be taken at a specified time or condition, including a certain time or place, and talks about the manner of taking the deposition such as the scope of the deposition, those kinds of questions that can be asked, that the victim advocate, guardian ad litem, or other support person not witness to the proceedings can be present, that the defendant shall be physically excluded from the deposition but may attend via electronic means as determined by the court or any other provision the court determines is justified and appropriate. And that when issuing this order the court shall consider the age, health, level of intellectual functioning, developmental level, and emotional condition of the child and whether the child has knowledge material to the proof of defense. So this amendment is really the content that we've been debating through most of our six hours and that is, again, focusing on putting protections in

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place when there is a deposition held and recognizing that when a judge is determining the deposition that the judge consider the existence of a forensic interview. And that is now the focus of the bill as soon as we pass AM1682. The content of the bill stresses the protections that we put in place when a deposition is held. And recognizing the judge may grant a deposition to someone who is younger and that they just consider the fact that there's a forensic interview as one of the considerations in determining the deposition. And then if it is granted that they consider these protective orders and putting those protective orders in place. And again, colleagues, these protective orders are ones that are widely recognized as best practices for a deposition, a discovery deposition even of an adult. And in this case we're just asking the judge to consider these protective orders in a situation in which it is a child, someone 18 years or younger who is in this situation and only those who have gone through this forensic interview that is used in a situation when we have a violent crime, so a victim or witness to this violent crime. So those are children who will already have trauma from that situation and we're trying to be attentive to making sure that we're providing protections for that deposition. We don't take out the deposition, but we provide protections in place when a deposition occurs. And, again, this is part of making sure that the process balances that need for a time having a deposition but recognizes that when there is a deposition we're going to try to reduce the trauma of that deposition as much as possible. I don't believe any of the protections in place that we recommend or suggest are protections that in any way should prevent the deposition from being one that can help get at the truth in the situation. There are protections to try to make the child or the minor feel more comfortable and trying to make sure that the process is one where the minor feels there's a sense that their needs are being attended to when that's essential. And, again, we had many people who testified, some on their own behalf, some on the behalf of their clients, their family members talking about the challenges of this deposition that occurs and the fact that it's a very sparse process. And so this is partly to fill that in to provide some added structure to that deposition process, and to do so in a way that provides attention to what protections are necessary for a minor to make sure that process is one that allows the minor to have some recommendation and attention to what needs to be changed in order to make sure their deposition is something that they will be able to go through without undue trauma or intimidation. And so I urge your support of the amendment, AM1682, and your support of LB589. Thank you, Mr. President. [LB589]

PRESIDENT FOLEY: Thank you, Senator Crawford. Mr. Clerk. [LB589]

CLERK: Mr. President, Senator Chambers would move to amend Senator Crawford's amendment. (FA137, Legislative Journal page 1157.) [LB589]

PRESIDENT FOLEY: Senator Chambers, you're recognized to open on FA137. [LB589]

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SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, rather than write a lengthy amendment all at once, I'm going to take this in small bites so that it can be easily grasped. On page 2 I'm striking the word "shall" in line 3. Here is the sentence where "shall" appears. In determining whether to approve the taking of a deposition, the court "shall" consider the availability of the recorded statement of the child. I would strike "shall" and insert "may." I would like to ask Senator Crawford some questions. [LB589]

PRESIDENT FOLEY: Senator Crawford, would you yield, please? [LB589]

SENATOR CRAWFORD: Yes. [LB589]

SENATOR CHAMBERS: Senator Crawford, since it's a one-word change, I'm going to ask you these questions. Are you trying to take away the judge's discretion by putting this language into the law if it's adopted? [LB589]

SENATOR CRAWFORD: The judge still has discretion. We're recommending some protection orders for them to consider. [LB589]

SENATOR CHAMBERS: Then you wouldn't be opposed to saying the court "may" consider the availability of the recorded statements of the child?. If you say "shall," then you've taken away discretion. If it's left to the discretion of the court, you're calling attention to the court of the fact that this statement exists and that the court "may" give it consideration. So do you object to the change? [LB589]

SENATOR CRAWFORD: That's not what I would prefer, but if that would get support for the bill I would consider it. [LB589]

SENATOR CHAMBERS: No, it's not going to make me support it. I'm trying...if you're going to put something in here to make it make sense...that is contradiction to discretion. The word "shall" is not discretionary in the law. It's mandatory. Then let's go to something else. What does the word "consider" mean? [LB589]

SENATOR CRAWFORD: It means that in making that decision they recognize that that's available. [LB589]

SENATOR CHAMBERS: That's not what it says here. What does the word "consider" mean? If the judge were looking at this section, this sentence, then all the judge would have to do is say, okay, there's the recorded statement, I've considered it. It's just an acknowledgment. I

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acknowledge it exists and that ends it. That can be what would happen isn't that true, because the word "consider" is not defined and it has many nuances? [LB589]

SENATOR CRAWFORD: It does have nuance. I believe that word does mean that that's a factor that gets added attention in that decision. [LB589]

SENATOR CHAMBERS: You almost said that the judge can, if he chooses to, he or she. "May" is the word that should be there if what you said is what's...who crafted the language of this amendment that we're looking at? [LB589]

SENATOR CRAWFORD: Senator Hilgers and I, and we were working with a couple other senators. But Senator Hilgers and I spent the most time on it. [LB589]

SENATOR CHAMBERS: Were there any lawyers involved? [LB589]

SENATOR CRAWFORD: I believe he is a lawyer. [LB589]

SENATOR CHAMBERS: I wish that Senator Hilgers were here because this is very poor, sloppy language. It's slapdash, and I'm saying it after you pointed out that there were lawyers involved. Senator Hilgers of all people, as meticulous as he is, knows that the word "consider" carries no specific meaning that courts universally would take it to mean or even all people. And if you use the word "shall" everybody who knows the law will understand that that is mandatory. You don't have discretion. When the word "shall" exists when you're talking about what an agency shall do, that means the job that they do is ministerial. It's just looking at this and this is what they've got to do. They have no discretion, so if they don't do it you can get a writ of mandamus and they will be ordered to do it, because the law says "shall" and you have no choice. You have not done it. This court orders you to do it, and if you don't do it you are in contempt of court. "Shall" allows the offering or entry of a mandamus. Now when it comes to what a court is doing, if it's a lower court and that lower court is faced with a mandatory duty and it fails to carry it out, the higher court can issue a mandamus to that court and it can say, you must act. It won't tell it what decision to reach, but it will say you must do this. This is an order. What you all have done is to direct the court by mandate to consider this statement without saying what consider means. So the court or anybody could say, why are you trying to order me to do something without specifying what that something is? Now, you don't have to accept it. In fact, if you don't it plays into my argument ultimately against the bill, so I have other amendments. And that's all I will ask you on this one. And I know that the people are not listening and I know that if you have got these people to say they'll vote for cloture, they're going to do it. But I'll tell you what, if this bill moves we have something in which most people will be interested and I'm not, and that's consent calendar. I'm going to force this body to either stand up or pay up. It cannot be discretionary if

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it's mandatory. This makes it mandatory that the judge do it, but you're saying your intent is not to take away the judge's discretion, so we'll go a little farther. If we go to line 5, upon granting a motion to depose a child 18 years of age or younger the court on its own motion or by motion of a party "shall" issue any protective order. You're mandating that a judge "shall" issue this order. And then in line 7 it says, issue any protective order that justice requires to protect the child. No. The word "that" should be substituted with or by "if." If you're talking about discretion and the "shall" should not be there, but you're saying that if the court goes through these steps and it grants a motion to depose a child on its own motion or by motion of the party, it "shall" issue any protective order and the word should be "if" justice requires, not "that" justice requires. There's still a question as to whether this is required, but you're mandating that the protective order issue. That's all that I'm going to ask you because I'm going to offer amendments. My feeling is that if you all are insistent on doing this--this is for the record--you all are not paying attention. A period should be placed at the end of line 7. And with the changes that I offered it would say, upon granting a motion to depose a child 18 years of age or younger, the court on its own motion or by motion of a party "shall" issue any order "if" justice requires to protect the child. I think every "shall" should be "may," since we're talking about the court retaining discretion. But the ones who are putting this before us--and I'm not talking about...I started to say "Sister" Crawford, but I'll keep it formal--Senator Crawford, is offering would take away the discretion of the judge. [LB589]

PRESIDENT FOLEY: One minute. [LB589]

SENATOR CHAMBERS: Then they put in words that have no meaning known to the law. Emotional harm. What is that? Distress. What is that? Harassment, undue influence, intimidation. Not one word is defined. Not one word is defined. These are general terms that mean different things to different people. That is the definition of ambiguity. If it can mean a just as well as it could mean b, then it's ambiguous. Ambidextrous means you're evenhanded. It can go either way. That's what this language is filled with. So I'm going to save the Legislature from itself by compelling 33 of you all to vote for this bad drafting, and I'm going to refer to it as trash because that's what it is. [LB589]

PRESIDENT FOLEY: Time, Senator. [LB589]

SENATOR CHAMBERS: Thank you, Mr. President. [LB589]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Williams, you're recognized. [LB589]

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SENATOR WILLIAMS: Thank you, Mr. President. Good afternoon. This is another time that I stand in opposition to this underlying bill. Every one of us that's here cares about kids and tries to do the best that we can to protect them in all situations, and can there be abuses of the current system? Yes. Are they prevalent? I don't believe so. Do we have defense counsels that can be overaggressive? We do at times. But I'm going to guarantee you, I've met some prosecutors that have had their day in court also. We continue to try to find that fine line of protecting kids. And every time we look at this language, which continues to change--we now have another attempt at that--we are treading on the constitutional rights of the potential defendant in the case. I don't know how you look at that any other way that there is a problem. Right now one of the issues is the time it takes to schedule these depositions. We've continued to try to find language that goes down this area of compromise. Now we're talking about the word "consider." I don't know how that works any different than where we are right now. Again, are we trying to solve a problem that really exists or one that exists in the minds of a few people? So, again, I am opposed to the underlying bill here. I appreciate the advocacy that has been brought to the floor today, and I would yield the balance of my time to Senator Chambers, if he would like it. [LB589]

PRESIDENT FOLEY: Thank you, Senator Williams. Senator Chambers, 2:50. [LB589]

SENATOR CHAMBERS: Mr. President, as I offer these amendments, I hope every one of them is voted down. I want them to be voted down so that you have this bad thing that Senator Hilgers, the resident legal scholar for every cockamamie notion that's on the wrong side of an issue about which he is profoundly ignorant and if he's listening I hope that will run him up here out of his hiding place. Actually, Senator Hilgers is far from ignorant. Senator Hilgers is...what he does is inexcusable. He knows better than to bring trash like this, and he knows that I'm going to look at it and there's nothing I can do other than look at it. And you all begin to take away the good feeling that I had when I came here today. Ecumenism was going to reign. Earlier, Senator Groene had participated in the crafting of an amendment. A compromise had been reached. The compromise did not do as much as I wanted that bill to do, but warring sides had come together to bring us something that would take us farther down the proper road than we are now. I did not even comment on it. I did not stand and praise them and say, however, and then tell why I didn't go far enough. On that bill something was better than nothing, so I left that alone. I even told Senator Groene how pleased I was with the fact that they were able to... [LB589]

PRESIDENT FOLEY: One minute. [LB589]

SENATOR CHAMBERS: ...arrive at that compromise. It was the era of good feeling. But, Senator Groene, my eras on this floor don't last very long, and I'm at one of those points now where I'm very upset at the sloppy drafting that we have here. Sometimes grammar needs to be taken into consideration, because words have meaning. Grammar is designed and based on a

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concept of logic. Language has a logic to it. And because words have meaning, "if" is not the same as "that." I'm looking at something like that, but what I intend to do is offer my amendments, explain why I think they should be adopted. [LB589]

PRESIDENT FOLEY: Time, Senator. [LB589]

SENATOR CHAMBERS: Thank you, Mr. President. [LB589]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Vargas. [LB589]

SENATOR VARGAS: Thank you very much, Lieutenant Governor. Colleagues, we are debating the underlying...we're debating amendments, yes. We're also debating just the fundamental bill on the notion. What I'm hearing from this amendment is that we would be adding language that encourages judges to consider something. What we heard earlier has not changed. Judges are able to already employ protective orders for different situations. It's in their ability as the judge of the court. It's also the ability of individuals to advocate on behalf of that. So we're now debating on whether or not this amendment, putting in language that would say "consider," but they already have the ability to do that. I don't want to add superfluous language to this statute that seems unnecessary. And, again, this comes back to this notion that there's a problem we're trying to inherently solve. I want to read a specific portion of Tom Riley's letter to us that says...and he's a public defender for Douglas County. However, giving the power of the court in all cases to dictate in advance which matters are to be covered in a deposition halts the defense counsel's ability to adequately represent their client, as it is hard to anticipate what a child may say during an inquiry. A spontaneous utterance not anticipated by any party would not be allowed to be pursued if the court ordered only certain topics to be covered. This provision ties the hands of counsel, ties the hands of counsel and is an unrealistic imposition upon a deposition or the process which is a dialogue with a child. The purpose of this part of discovery is to determine if there are defenses to the allegations in a neutral capacity. There are trained lawyers to identify the neutral capacity. This is the most important. To limit in any way discovery is to unconstitutionally limit a defendant's right to a fair trial. We could debate on how to make this stronger, more appropriate, but fundamentally to limit discovery in any way, shape, or form to constitutionally limit defendant's rights to a fair trial is what we're discussing here. To continue to support this would be infringing on that constitutional right, and without a compelling reason. Colleagues, I'm concerned we're going down a route, and we have these debates common where we are assuming there's a problem. We're hearing that we need to protect children, but we always ask ourselves this question of, we're not only protecting one individual in every single piece of legislation or law that we pass, we're protecting the process. We're protecting inherently the laws that we have currently in front of us. And so I'm asking you to consider, is this the appropriate time to move forward on a piece of legislation that we may feel is not really solving the inherent

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problem, is also adding in, I think, some less...more permissive language, although it is already allowed by the courts to do some of this. So then why are we doing it? In situations...I really like to listen to Senator Chambers and what I'm hearing him talk about that there's not an inherent reason to do this. I feel very justified in this, because it's not often that you see this argument of, we don't need to do something because it's already allowed. Where we add in sometimes unnecessary language into statute that may or may not already be enabled by our court system or by the system itself or that we make assumptions on the people, the actors, and that one is inherently bad or good. That prosecutors are either good or bad, a really bad assumption,... [LB589]

PRESIDENT FOLEY: One minute. [LB589]

SENATOR VARGAS: ...or that defense attorneys are either good or bad. A really bad assumption. But inherently in this piece of legislation, we are assuming that one actor is more bad than the other, and that we need to then inherently protect and put something in statute that protects, even though we don't have the compelling evidence to show we need to do that protection. Colleagues, I just ask you to really consider--and I know we've considered this year--when we're pushing something forward, are we solving the right problem? Are we trying to anticipate how we can better support local municipalities, local areas to do some of this good on their own? And if we get to a tipping point where we really need to solve something, so why don't we have that answer? Why don't we have that compelling evidence here? Why is that not what's being brought? Instead, we're being led to believe that this is more to protect the child, and I do understand that. But we are here to protect the inherent process of lawmaking, the due process... [LB589]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: Time, Senator. [LB589]

SENATOR VARGAS: Thank you very much. [LB589]

SPEAKER SCHEER: Thank you, Senator Vargas. (Visitors introduced.) Returning to debate on FA137. Senator Chambers, you're recognized. [LB589]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, since we're going to be on this bill a long time, I'm going to take my time so that what I'm saying, if somebody reads the record, it will be clear what I'm trying to get at. So I'm at the bottom of page 1 of the amendment Senator Crawford is asking. It says, when--and I find problems with that like

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18 years old, but I'm not going that way right now--when a child 18 years of age or younger at the time of the motion has, pursuant to this section, undergone a video-recorded forensic interview at a child advocacy center accredited to conduct such interview the court may grant a deposition of such child upon a motion by a party to the case, period. Period. The judge, as is the case now, may grant a motion for a deposition. Then they add this limiting sentence: In determining whether to approve the taking of a deposition the court "shall" consider the availability of the recorded statements of the child. When you look at a sentence, you have to see what language applies to what. This sentence says the court "shall" consider the availability of the recorded statements of the child. It doesn't say the court has to consider the recorded statements, just the availability. That's all. So the court says, you told me that this statement is available, okay. That's all he has to do or she. It doesn't say that the court even has to look at the statement itself. Since I'm going to take all this time...when you're in grade school and they're teaching you the parts of speech, when they ask you, what is a noun, what is a noun? You know what people say, and the children are taught to say this because I was taught to say it until I thought about it? A noun is a person, place, or thing. No, a noun is a word that denotes a person, place, or thing. They taught me wrong when they taught me grammar, but as I began to use logic then I--I was always a slow reader--I take things a word at the time, so a noun is a word that denotes a person, a place, or a thing. In this case it says in the statute that the judge shall consider the availability of the recorded statement. It doesn't have to be made available. It doesn't have to be presented in court. Somebody can just say, there's a statement recorded. And the judge says, is it available? They say, yes. That ends it. That's all. Why do you even have that? But then it goes on to say, upon granting a motion to depose a child 18 years of age or younger the court on its own motion or by motion of a party shall issue any protective order that justice requires to protect the child. I think if you're talking about discretion... [LB589]

SPEAKER SCHEER: One minute. [LB589]

SENATOR CHAMBERS: ...it should say, the court "may" issue any protective order "if" justice requires it, not "that" justice, because that's a conclusion. You have stated the conclusion that the judge is to arrive at in advance, therefore, it must issue. The word should be "if." And in grammar that structure is called the "if then." If a, then b. So if justice requires it, then it would issue. So the grammar, the syntax, they're atrocious and yet this is a law changing substantively, a very important part of the law that's been with us from time in memorial. Thank you, Mr. President. [LB589]

SPEAKER SCHEER: Thank you, Senator Chambers. Senator Schumacher, you're recognized. [LB589]

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SENATOR SCHUMACHER: Thank you, Mr. Speaker, members of the body. Every once in a while we learn something from extended debate of substance. For those of you that were here, you may recall that Senator Chambers asked Senator Crawford about the accreditation process and how these interviewers or these child advocacy centers are accredited. And Senator Crawford quite rightfully responded, well, that's all handled in LB728. So let's look at LB728 in the context of this amendment that we have before us. The amendment talks about a video-recorded forensic interview at a child advocacy center accredited. It doesn't say that it is by a person but at a location. That's all that says. So what is the role of this location and its accreditation, and what is the role of a forensic interview? Well, if we go to LB728 it says the purpose of an advocacy center is to provide a child-focused location for conducting forensic interviews and medical evaluations for alleged child victims of abuse and neglect; it doesn't say felonies. And for coordinating and multidisciplinary team response that supports the physical, emotional and psychological needs of children who are alleged victims of abuse and neglect. Their job is to make the child emotionally and physically better. That's their job and their mission, not to get to the bottom of the truth of a criminal case. In fact, they have a conflict of interest by being expected under the proposed amendment to get to the bottom of the truth of a case and making a child feel better in some cases. And, in fact, a forensic interview doesn't have anything to do with truth or a criminal case for that same law says, for purposes of this section a forensic interview means a video-recorded interview of an alleged child victim conducted at a child advocacy center by a professional with specialized training designed to elicit details about incidents of abuse or neglect, and such interview may result in intervention in a criminal or juvenile court. The purpose is not to find the truth about a criminal defense. So we have an institution, perhaps even an interview with a conflict of interest that we are entrusting with somebody's years and years of life in a felony case. We are trying to freeze out the defense attorney and the defense and the primary mission of finding out the truth. This interviewer has a conflict of interest. The advocacy center has a conflict of interest. Their mission is to make the child feel better, not seek justice for a criminal defendant. [LB589]

SPEAKER SCHEER: One minute. [LB589]

SENATOR SCHUMACHER: This legislation is fatally defected, not only for some of the things Senator Chambers is pointing out, but because it references a statute and a structure with these advocacy centers which was not built with criminal defense in mind because it didn't have to be built with criminal defense in mind because we had a deposition mechanism which this measure that we're looking at today seeks to shut off, limit, or impede. This is not good legislation. It needs to go back to the thinking board. Thank you. [LB589]

SPEAKER SCHEER: Thank you, Senator Schumacher. Senator Vargas, you're recognized, if you are here. [LB589]

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SENATOR VARGAS: Thank you very much, President. Colleagues, I know we're debating a lot of things here, and something you should know about me, I tend to be a broken record on things and the reason why is because I'm very pragmatic. I try to be as pragmatic as possible in some of these debates. I don't try to let too much of my emotions get the best of me. I try my best to be seeing the other perspective and the side. I'm also trying to weigh what we deem to be a good policy recommendation or a good way to support good policy. I've gotten schooled at times by Senator Schumacher on some of my bills, and I've gotten pushback on things in committee and I've learned that not every bill that I brought forward is always the appropriate policy solution to a problem. And that's why I think inherently every one of our bills, some of them get through committee, some of them don't. Some of them that even they get to this specific part, even then have gotten this year, been debated and debated because we're finally getting into the weeds of the policy and whether or not it's one part of our area of expertise or not or we have some content knowledge in regards to it, and we make decisions based on that. So it's not that we're taking this lightly. I think that it is healthy for us to listen and debate. What I'm still hearing and I've heard from many of the individuals that are not in support of this is that we are doing something that we don't need to do. And I think that that is enough of a reason to then not move forward on something, that it's already inherently in the power of somebody, it's something that we can and should be monitoring if there's a longer-term issue or problem that we're having. And there are professionals, law professionals that are certified that defend individuals that also are doing everything they can to make sure the process and individuals in these scenarios, specifically children or youth under the age of 18, have protections and are not being traumatized on purpose. That's not what we're hearing, that's not what we have in front of us. And that's why maybe it pains me when I'm trying to check back on the emotional response where we don't have something where we're seeing a problem, we're trying to solve it. And so I'm going to keep sticking to that because it is what we're doing here. If we're voting this forward, we're voting it because we believe this is the best policy solution and we've heard the debate and we know that this is going to better equip both sides, it's going to create some fair process, it's going to make sure we have the due process that's needed. But we've heard time and time again we're infringing on some constitutional rights and I'm not just saying that, that is from a public defender that was elected and has been trying cases for 20-plus years in Douglas County, the public defender in Douglas County, our largest county in the state of Nebraska. And from the Defense Attorneys Association that is saying that they believe this is both unnecessary and creates undue process for those that are trying to defend the trial process, everything leading up to the trial. If we are not going to listen to the concerns of experts and if we're not also going to ground ourselves in the fact that there isn't compelling reason to do this right now, then when we vote to move this forward we're voting to move something forward that we inherently know is not the best or... [LB589]

PRESIDENT FOLEY: One minute. [LB589]

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SENATOR VARGAS: ...appropriate policy solution, that experts on a side are not supportive of this policy solution, that it's not being grounded in objective or pragmatic information that we know is getting to a leverage point where we need to solve a problem like we usually do with other things, and that there isn't enough information or that people here on the floor--those of us that are left here on the floor--are not informed enough to make a decision on the unintended consequences that might come out of this. So, colleagues, I ask you to really consider whether or not this is the appropriate policy response moving forward to ensure that we are making the best decisions in this body. And at this moment right now, I do not believe that we have enough information or the information we have that makes this the appropriate policy response when we're also hearing that we're potentially removing some constitutional rights for fair and due process. [LB589]

PRESIDENT FOLEY: Time, Senator. [LB589]

SENATOR VARGAS: Thank you very much. [LB589]

PRESIDENT FOLEY: Thank you, Senator Vargas. Senator Pansing Brooks. [LB589]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. I wanted to read a letter into the record from Mr. Robert Williams, who is a criminal defense attorney. And he said: My main concern with LB589 lies with the trimming of the Sixth Amendment fabric for my future clients. This bill actually creates unintended consequences that parallel exactly what it aims to defeat. In trying to do away with the ability to depose minor witnesses, the likelihood of each case going to trial increases exponentially. And then at trial the minor witness will then be cross-examined in a court of law in front of a 12-person jury, the judge, the prosecutor, the defense attorney, the defendant, and the general public in order for the defense to present its case and derive information from that party. So instead of protecting the child, in fact, it actually causes the child to undergo more stress because they're in front of so many people answering this question, and of course at a much later date than early on and we know that stories change as time goes on. He goes on to say that LB589 seeks to limit the taking of depositions of witnesses under the age of 18. As a law practitioner, depositions of any and all witnesses are important discovery tools at our disposal. Currently, there are existing protections and protocols in place for the benefit of child deponents. The safety of the children and protection of the sensitive case related documents/reports are of utmost importance. Certainly, the vast majority of my contemporaries, if not all, do not depose children with an intent to harass, intimidate, or threaten them. The depositions in question are always preceded by some time of video-recorded forensic interview, usually at Project Harmony in Omaha, of the minor party. It is worth noting that the video forensic interview is not organically a fact-finding interview. Rather, they have become interviews to support the potential prosecution of a suspect. Depositions are not the scary

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monstrosity that its zealots would have you believe. Depositions are typically performed in private settings, as opposed to what we just mentioned in front of the whole 12-person jury, judge, prosecutor, defense. That was my addition, not his. They're in private settings usually in the county attorney's office with only the prosecutor, witness advocate, court reporter, and defense attorney present. The defendant is not present, that's highlighted. The questioning is done at the alleged child victim's pace, breaks are taken as the alleged child victim desires. Although the subject matter is unsavory, most times the deposition is far less stressful than an alleged child victim anticipates. Following a deposition in the vast majority of the cases a plea agreement is then reached among the parties. However, if the defense counsel's only access to question an alleged child victim is at jury trial, guess what, then each defendant will have no option but to proceed to trial. To reiterate, LB589 actually creates unintended consequences that parallel exactly what it aims to defeat, all while trimming a little fat off the edge of the Sixth Amendment to the U.S. Constitution. Thank you for your time, Robert M. Williams. So, again, my friends, I understand why the advocates are wanting to protect the child at all costs, and I agree with that. But we have to remember that often a child or minor is the suspect or potential defendant in the case. [LB589]

PRESIDENT FOLEY: One minute. [LB589]

SENATOR PANSING BROOKS: And, again, this is everyone represented without attorneys. Now, many of you have said before, well, who needs an attorney? Buck up and represent yourself. No problem. Again, if it isn't clear here what we're talking about and why attorneys are needed to represent children, then it will never be clear to you. And, again, we are balancing Sixth Amendment rights to confront, right now, verses the protection of the child. But, again, it's only one of the children because we've heard from Senator Wayne that there have been cases where they have a group of kids in a big party situation. There's a sexual assault, and all the kids come together and decide they're going to blame it on one person rather than the other and you can't come back in and have any questioning of the other witnesses. That makes no sense in our system of justice. [LB589]

PRESIDENT FOLEY: Time, Senator. [LB589]

SENATOR PANSING BROOKS: Thank you. [LB589]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Chambers. It's your third opportunity, Senator. [LB589]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I shall plod onward, but I'm glad that others are venturing forth in differing directions to show the many

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flaws in this legislation. The first thing that ought to be done if a bill is being drafted is to make sure that it says what you mean it to say. It says what you mean for it to say. I'd like to ask Senator Crawford another question before I go forward. [LB589]

PRESIDENT FOLEY: Senator Crawford, would you yield, please? [LB589]

SENATOR CRAWFORD: Yes. [LB589]

SENATOR CHAMBERS: Senator Crawford, you have said repeatedly that the intent is not to restrict a judge's discretion. Isn't that true? [LB589]

SENATOR CRAWFORD: I've said it so grants the judge discretion. It does restrict it in some sense, in the sense that we're telling them to consider these recordings and telling them to consider this protective order. [LB589]

SENATOR CHAMBERS: But the judge can reject all that if he or she chooses. Isn't that right? [LB589]

SENATOR CRAWFORD: That is correct. [LB589]

SENATOR CHAMBERS: Now, on page 2 in line 6 are the words "the court on its own motion." That technical term, a Latin term, sua sponte, its own motion. The judge decides to do it. That's discretionary right there. The judge can decide to do any and all of this or can decide to do none of it. Would you agree? [LB589]

SENATOR CRAWFORD: This tells them that they are...that they may choose to do that, but in that choice we're telling them that they are to issue a protective order that justice requires. So they may decide justice does not require anything. [LB589]

SENATOR CHAMBERS: So they may do it all or may do none of it. Isn't that correct? If the judge decides to do none of this...show me where the judge would be wrong or violating this law if the judge chose to do none of this. [LB589]

SENATOR CRAWFORD: The judge would be indicating by doing none of it that justice doesn't require any of it. [LB589]

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SENATOR CHAMBERS: Right. So the judge may do any or all of it, which is what discretion means. That's all I'll ask you. You're not giving the judge anything that the judge doesn't already have. You're not taking from the judge anything that the judge already has. People get the impression that by saying "shall" they can compel the judge to do what follows that "shall," but before you get to that "shall" is the language that gives the judge wiggle room to do it or not do it. These advocacy groups mean well, but they don't know. And when people are not going to respect those who are trained in the law...forget me, I know they don't respect anything I say. You have seasoned public defenders. Senator Pansing Brooks read a letter from a lawyer with much experience. They know the law. Senator Wayne is a practicing lawyer in this area. These advocacy groups don't know the law, they don't even know how to draft legislation. They do not understand grammar and syntax--that's s-y-n-t-a-x, not s-i-n tax. That's called an illegal payment to somebody for something that they ought not be doing. I don't mean that kind of sin tax. [LB589]

PRESIDENT FOLEY: One minute. [LB589]

SENATOR CHAMBERS: It sounds the same, but it's different, almost a homonym. Here's what I'm getting at. You're doing what does not need to be done, but you're creating barriers for a defense attorney. You're creating genuine barriers to the seeking of the truth and the preparation of a defense. That's all that this does. I think it cripples what the purpose of the law is. And I'm not going to vote for any of my amendments, but I'm going to explain each one for the record. And if you accept my amendments, it shows even to a greater extent that this is not needed and it really says nothing. It makes these groups run around saying, look what we did. Look what we got the Legislature to do. [LB589]

PRESIDENT FOLEY: Time, Senator. [LB589]

SENATOR CHAMBERS: Thank you, Mr. President. [LB589]

PRESIDENT FOLEY: Thank you, Senator Chambers. Items for the record, please. [LB589]

CLERK: Mr. President. New A bills (read LB477A and LB731A by title for the first time.) Senator Larson offers a study resolution, LR375. Amendments to be printed: Senator McCollister to LB477; Senator Brewer to LB1008; Senator Harr to LB909. I have a confirmation report from Natural Resources. Mr. President, the Transportation Committee will have a meeting under the south balcony at 4:00, 4:00 south balcony, Transportation. Thank you. (Legislative Journal pages 1158-1160.) [LB477A LB731A LR375 LB477 LB1008 LB909]

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PRESIDENT FOLEY: Thank you, Mr. Clerk. Continuing discussion, Senator Crawford.
[LB589]

SENATOR CRAWFORD: Thank you, Mr. Lieutenant Governor. And I want to just circle back again and emphasize a few points. One point that has been made is the point about constitutional rights to due process. And I want to again emphasize that the right to confront the accused is a right at trial and we do have cases in our Nebraska Supreme Court and that includes State v. Collins, that the defendant is not entitled as a matter of a right to a deposition. So the trial court has the discretion to grant a deposition, but this bill does not restrict a constitutional right. This bill restricts one of the steps in the process. Now, it is also the case that we've worked hard to include attention to best practices and research and what is done in other states. At the very beginning of this process, the first time we talked about this bill and in this process, we have had conversations with defense attorneys. But recognizing that there's probably not any language that we could come up with that might...that would be language that they would like to see passed. It's in their interests to fight for keeping the deposition as it is and so that is part of what we understand coming into this situation. Sometimes there are compromises that can be struck to figure out a way to address the situation that brings all parties on board, and that is great. Sometimes there's situations where you're not likely to find a compromise because one of the parties is very vested in maintaining the status quo. And that's where we are today with LB589. It is the case we had conversations with representatives of defense attorneys. It is the case in those conversations that the protections we're emphasizing now were not seen as problematic. They were concerned about putting a burden of proof in for the deposition, and that part has now been amended out. I would also like to say that, again, that this is...this focus on putting protections into the deposition is considered a common sense middle ground focus. And the bill itself does ask that there's a consideration of the availability of the recorded statements of a child, and that is also the recognition that the court consider the availability of the statements. That's also very similar to the recommendations of the American Bar Association, so this notion of considering the availability of recorded statements is not...is something that has also been considered and recommended in other situations. So that's...I want to emphasize that as well. I also want to emphasize that in some counties, it appears Douglas County, the defendant is not in the room, but there are other counties where there's not the case where the defendant is in the room. And so we've heard from some folks across the state in other counties emphasizing how much they would like to see the case that the defendant is not in the room. But that's not what is offered or presented in their case. I also want to emphasize that the forensic...we were reading out of Section 28-728 and I want to read a part of that section that talks about the forensic interview and the video forensic interview is for those who are victims or witnesses,... [LB589]

PRESIDENT FOLEY: One minute. [LB589]

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SENATOR CRAWFORD: ...thank you...alleged to be victims of sexual abuse or serious physical abuse, neglect, or have witnessed a violent crime, or found to be in a drug endangered environment, or to have been recovered from a kidnapping. And so that is the focus, those victims, and also that the forensic interview in another part of the bill and another part of that statute says that it's emphasis the training to elicit details about alleged incidents of abuse and neglect and that such interview may result in intervention in criminal or juvenile court. So the emphasis is to elicit details about the incident and that is really an emphasis of the interview as well as trying to figure out what services the child may need. Thank you, Mr. President. [LB589]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Briese. [LB589]

SENATOR BRIESE: Thank you, Mr. President, and good afternoon, colleagues. I rise today in support of AM1682 to LB589. I'd like to thank Senator Crawford for bringing this bill and I'd like to thank everyone for the great discussion on it. A lot of what we do in this body involves weighing competing interests and LB589 along with AM1682 is no exception. I think Senator Pansing Brooks alluded to that. And I believe the proposed amendment, AM1682, more than adequately accommodates the rights of defendants. In fact, the amendment goes further than I would prefer. I disagree with the statement earlier that that amendment or this...maybe the statement was this bill seeks to shut off, limit, and impede depositions. Maybe the bill did, but I don't think the amendment does. Like Senator Vargas, I don't think the amendment is a whole lot different than current law. For example, the amendment, Section 1, paragraph (5)(a) tells us if a video-recorded interview is given the court should consider that the video interview was given before granting a motion to depose. Well, of course, he or she should consider that. Current Statute 29-1917, paragraph (1)(b) is not that much different. Under current law, a court may order the taking of the deposition if it finds it may be relevant and of assistance, and the existence of the video deposition would be a consideration under currently existing law or under the amendment. Going further, looking at AM1682, Section (5), paragraph (b), tells us a court shall issue a protective order that justice requires. Moving on, AM1682, Section 1, paragraph (5) (a), provides that a judge may include certain conditions in a protective order. Then we go to currently existing law, Section 29-1917, paragraph (1)(a) and (b), it's similar to the amendment here in that currently existing law allows a deposition if a court finds that it is relevant and of assistance. And Section 29-1917, paragraph (2), provides that a court shall include such conditions as the "court determines to be just." It seems to me that the inquiry under the amendment and the inquiry under currently existing statute is very similar. In other words, the parameters set out by AM1682 aren't that much different than current law. It does, however, provide the judge with some suggestions, ideas, and options regarding the deposition. I think that's a good thing. And I don't necessarily disagree with Senator Chambers that some of the mandatory language could perhaps be permissive. I could be convinced of that. I do think there's some room here for compromise on this, and I look forward to a little more debate on it, and hopefully we can get together on this and keep the AM moving. Thank you, Mr. President. With

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that, I would yield the rest of my time to Senator Chambers, being he just hit his third light, if he wants to take it. [LB589]

PRESIDENT FOLEY: Thank you, Senator Briese. Mr. Chambers, 1:30. [LB589]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Briese. Senator Briese, I'd like to ask you a question or two. [LB589]

PRESIDENT FOLEY: Senator Briese, would you yield, please? [LB589]

SENATOR BRIESE: Well, that wasn't my intent in yielding time, but sure. [LB589]

SENATOR CHAMBERS: You are careful with language and you did use the word that what is in this amendment is similar to what's in the existing law, didn't you? [LB589]

SENATOR BRIESE: Yes, I did. [LB589]

SENATOR CHAMBERS: So, is it similar enough to do away with the need of saying it again in this amendment? [LB589]

SENATOR BRIESE: I think this amendment is good in that it sets out, not parameters, but sets out ideas and suggestions for the judge to use. It doesn't require the utilization of those conditions, but I think by setting it out in statute gives them some ideas, that's a good thing. [LB589]

SENATOR CHAMBERS: Is a robin similar to a blue jay? [LB589]

SENATOR BRIESE: Yes. [LB589]

SENATOR CHAMBERS: But it's not a blue jay. [LB589]

SENATOR BRIESE: Correct. [LB589]

SENATOR CHAMBERS: Are both of them birds? [LB589]

SENATOR BRIESE: Certainly. [LB589]

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SENATOR CHAMBERS: Can both of them fly? [LB589]

SENATOR BRIESE: Yes. [LB589]

SENATOR CHAMBERS: Do both of them lay eggs? [LB589]

SENATOR BRIESE: Yes. [LB589]

SENATOR CHAMBERS: Both of them lay nests. [LB589]

SENATOR BRIESE: Yes. Both of them do what again? [LB589]

SENATOR CHAMBERS: Build nests. [LB589]

SENATOR BRIESE: Yes. [LB589]

SENATOR CHAMBERS: But they're not the same. That's all I'll ask you. Members of the Legislature... [LB589]

PRESIDENT FOLEY: Time, Senator. [LB589]

SENATOR CHAMBERS: Thank you, Mr. President. [LB589]

PRESIDENT FOLEY: Thank you, Senator Chambers. Speaker Scheer. [LB589]

SPEAKER SCHEER: Thank you, Lieutenant Governor. Senator Crawford has asked me to place a Speaker hold on this bill, so we'll be passing on to at the next one until we come back at some later date to this bill. Thank you. [LB589]

PRESIDENT FOLEY: Thank you, Mr. Speaker. We'll move on to General File, 2018 senator priority bills. Mr. Clerk.

CLERK: Mr. President, LB998 by Senator Walz. (Read title.) Senator Walz presented her bill on March 9. Committee amendments as offered by the Education Committee were offered. When the Legislature left the issue, Mr. President, Senator Linehan had pending AM2333. Senator, I

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have a note that you would like to withdraw that amendment and offer as a substitute AM2572. (Legislative Journal page 1160.) [LB998]

PRESIDENT FOLEY: Without objection, so ordered. [LB998]

CLERK: Senator Linehan, AM2572. [LB998]

PRESIDENT FOLEY: Yeah. Thank you, Mr. Clerk. Before we proceed with the introduction of that amendment, Senator Walz, if you would like a couple of minutes to refresh us where we left off you're welcome to take that time. [LB998]

SENATOR WALZ: Yes, thank you, Mr. President. LB998 develops a collaborative school behavior mental health program, a program that would provide a social worker to each of the 17 educational service units across the state. A director would oversee each social worker and would be housed under in ESU coordinating council. This program would not only provide services, but track resources available within the communities across the state. This gives the Legislature further information on what tools are available and where we need to provide additional support in the future. The 2017 Nebraska school district mental health survey included 126 responses from superintendents, principals, school counselors, special education coordinators and many other education professionals. This evidence shows how necessary it is to address this issue within our state. Through this survey, five areas were overwhelmingly identified as areas of concern among school districts within the state of Nebraska. These five areas, people to provide services, training, awareness of resources, programming and family supports are all areas that a social worker is able to provide through their training. I've also received over 100 letters of support. This program is badly needed. I've also tried to address some of the body's concerns from the first time we debated this bill. The property tax concerns after the first three years as addressed is Senator Linehan's AM2572. This amendment would keep the original language of her AM2333 to delegate a contact person at each school for the social worker. In addition, it would take out all language of public funding by the General Fund, school districts or ESUs. It also adds a sunset date of July 1, 2022. I want to thank Senator Linehan for her help on this amendment; and I support AM2572. Thank you. [LB998]

PRESIDENT FOLEY: Thank you, Senator Walz. Before we proceed with the amendment, Senator Groene, did you want a minute or two to refresh us on the Education Committee amendment? It's at your option. [LB998]

SENATOR GROENE: Just want to remind everybody we took out, in the Education amendment, any state responsibility for funding it. [LB998]

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PRESIDENT FOLEY: Thank you, Senator Groene. Senator Linehan, you are recognized to open on AM2572. [LB998]

SENATOR LINEHAN: Thank you, Mr. President. I just want to...Senator Walz has done a good job explaining the amendment, so I'll just take a couple of minutes here. I did not support LB998 in committee because I didn't think there was...I thought...I have no argument with the idea. I know that behavioral mental health is very important. I know Nebraska is not doing enough; Nebraska, across the nation, we're not doing enough. So, the intent is good. My concern was you just can't put one person out in ESU and turn them loose without a little more structure. Senator Walz was very willing to accept the amendment to make sure that every school...and I really want to emphasize this...every school, every building needs to have a person in that building that is the go-to point person for these social workers. If there's not a person in every building, it will be almost...I mean, the job we're handing these people is enormous anyway. At the very least, they ought to know when they walk into a building who they're to talk to. And I think that helps the schools, too, get a little more focused. I appreciate very much that Senator Walz has agreed to sunset the program in July of 2022. Therefore, a future Legislature decides this is not the way to go after HHS and the regions have had more time to work through, that gives us a date to look to in the future to see if we can't have more involvement from the other groups who work mental health; that being HHS, hospitals, communities, and the regions. And it also, I think this is critically important to many in the body who have grave concerns about this bill, and I understand that, it takes any language which refers to funding from property taxes or General Fund out of the bill. So this is only private dollars that are donated, and we have a structure...that as we all know, this isn't going to address all of...all the concerns out there, but it gives us a start. So I ask for your green vote on AM2572, AM2044 and LB998. Thank you. [LB998]

PRESIDENT FOLEY: Thank you, Senator Linehan. Debate is now open on the bill and the pending amendments. Senator Pansing Brooks. She waives the opportunity. Is there any discussion on AM2572? Seeing none, Senator Linehan, you're recognized to close on the amendment. She waives close. The question before the body is the adoption of AM2572. 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. [LB998]

CLERK: 18 ayes, 2 nays to place the house under call. [LB998]

PRESIDENT FOLEY: The house is under call. Senators, please return to the Chamber, check in. The house is under call. Please check in. Senators McCollister, Hilgers, Morfeld, Kuehn, Wayne, Brewer, Schumacher, Hilkemann, please check in. The house is under call. Senator Morfeld, could you check in. Senator Hilgers, if you could return to the Chamber, please. Senator

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Linehan, will you accept call-in votes? We'll proceed to call-in votes. The question before the body is adoption of AM2572. [LB998]

CLERK: Senator Murante voting yes. Senator Kuehn voting yes. Senator Chambers, you had voted yes, Senator Chambers. Senator Scheer voting yes. Senator Vargas voting yes. Senator McCollister voting yes. Senator Watermeier voting yes. [LB998]

PRESIDENT FOLEY: Record, please. [LB998]

CLERK: 26 ayes, 0 nays on adoption of the amendment, Mr. President. [LB998]

PRESIDENT FOLEY: AM2572 is adopted. Is there any further discussion on the bill or the committee amendment? Mr. Clerk. I raise the call. Mr. Clerk. [LB998]

CLERK: Mr. President, Senator Erdman would move to bracket the bill until April 18...April 12, I guess. [LB998]

PRESIDENT FOLEY: Senator Erdman, you're recognized to open on your bracket motion. [LB998]

SENATOR ERDMAN: Thank you, Lieutenant Governor. So here we are again talking about LB998. We spoke about this bill in the past. I like it no better today than I did then. I'm not sure exactly what this bill will do. You got...you have 17 ESUs, and you are going to hire one social worker for each one and you're going to have a supervisor to supervise each one of those social workers. And then you're going to have to hire or designate somebody as a contact person in the school, and they're going to have to be trained or hired. And so we can say that there's not going to be any tax dollars spent on implementing this program, and that's a good program if you can do that. So what happens here is most of the time we get a program started, if we can't get it started like we want, we put it in place and we're going to have people make private contributions to get it started, and then it's going sunset in 2022, and then when it gets time to sunset, then they'll come in and say, oh, this program has been so good and we have done such wonderful things with it, we surely can't sunset this, so now we'll have to pick that up and let the ESUs pay for it. Just because it says in the amendment that Senator Linehan had adopted that they're not going to use any tax dollars doesn't mean that that won't be the case going forward. So, as I put the bracket motion up there, I don't like this bill. I don't intend it to go forward, and it's time for us to move on and talk about something that is important. And I don't know exactly what Senator Linehan was discussing or talking about when she said to have a contact person in

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each school. She seems to be distracted there, maybe when she is done talking I could ask her a question. Senator Linehan, would you answer a question? [LB998]

PRESIDENT FOLEY: Senator Linehan, would you yield to a question, please? [LB998]

SENATOR LINEHAN: Of course. [LB998]

SENATOR ERDMAN: Senator Linehan, tell me what you meant by each school should have a contact person. [LB998]

SENATOR LINEHAN: Well, during the last month or so when this bill has been under debate, I have talked to some of the supporters and they said even though they had kids who were in therapy and had doctor, had a psychiatrist, they were getting treatment; when they tried to reach out to the school to talk to the school about this patient, everybody...nobody in the school would be like the go-to person, not the nurse, not the psychologist, not the principal. So it's very frustrating for the providers because they couldn't...and many of these kids who are having issues are experiencing those issues in school. So that was the reason. I thought it would be a good idea that providers wouldn't have to search and find somebody in the school to talk to. [LB998]

SENATOR ERDMAN: So would that person be a regular employee of the school or would they have to hire somebody new? [LB998]

SENATOR LINEHAN: Well, I would hope since they...most schools have a nurse, psychologist, assistant principals and principals, and counselors, so that's five different people that could do this. I would certainly hope that they wouldn't feel the need to hire a new person. [LB998]

SENATOR ERDMAN: But they may. [LB998]

SENATOR LINEHAN: I understand why you would think that, sir. [LB998]

SENATOR ERDMAN: Yeah, okay. All right, thank you for answering a question. [LB998]

SENATOR LINEHAN: You're welcome. [LB998]

SENATOR ERDMAN: But anyway, going forward, colleagues, it's another program we're going to start, and as we have discussed it many times here, seldom, seldom does a program ever sunset. So if we think that that's going to go away in 2022, if you are here then, you'll see. That

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doesn't often happen. It very seldom does it happen. So I'm in favor of bracketing the motion until April 12. Thank you. [LB998]

PRESIDENT FOLEY: Thank you, Senator Erdman. Any discussion on the bracket motion? Senator Groene. [LB998]

SENATOR GROENE: I thought there be more in the queue. Looking for the original language, my concerns on the bill is I've had my staff looking through education statutes, and we don't really put in mental health as a condition or an area where education dollars should be spent. Historically, this body has considered that a purview of HHS. I'm not so worried about the donated money, which I agree with Senator Erdman, it won't go away. I'm more worried that we're going to put into education statutes that social workers and mental health is a part of education, which it is not. It's a health issue, not an education issue. And it's a foot in the door, camel's nose under the tent, whatever you want to call it, of incorporating mental health...I don't even know why mental health is mentioned in the bill, but it seems to be the biggest part of it. When a social worker...that's not their job. Their job defined is to be a facilitator for all sorts of issues: getting a kid to a summer program, getting them involved in a summer program; truancy, or health issue where they need some other services that has nothing to do with mental health. But if you read the bill, you know what the emphasis is and what the purpose of it is. It is to start putting mental health and state dollars and local funding for education to divert them to a medical situation. It is an attempt to say by the bureaucracy that misbehavior is mental health, it is not just plain misbehavior. It's an attempt to say, I can pawn these kids off over here to a mental health expert or a facility and claim that we did what we needed to do for the kids. Do we really want to put that camel's nose under the tent? Do we start wanting to turn educators who went to school for an English major, math major, elementary school endorsement to be concerned about mental health? And the other issue is, these mental health or social workers are in these schools and the parents are not. How do you have a government employee make a contact with a student about any issue or discuss a student on any issue of their health without the parents in the room. How does that conversation start? When the parents are finally called, do they have the diagnosis of the child already? Have they already got a plan where they are going to send the kid where a social worker is? That should concern all of us. They're well-intentioned, well-intentioned, but do we want to go down that road? Do we want to start putting mental health...the words into our educational statutes? I first thought it was harmless, but I've always said if we could put the social workers from HHS, supply an office for them in the school, they are trained, they have the network already, they have the contacts with the funding, into the school where the kids are that are already in foster care or in a family that is having some issues, this is redundancy. [LB998]

PRESIDENT FOLEY: One minute. [LB998]

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SENATOR GROENE: It doesn't need to be created. And I understand that. Every parent or every family qualifies for Medicaid are in the court system where they've been appointed a social worker, but I don't want to go down this road. We don't have enough money to teach English...to teach language and to teach them to read, and we are going to start diverting money down the road because all of a sudden now it's in the statutes, it becomes part of our curriculum, part of an education philosophy in the state that somehow mental health has something to do with learning how to read, any more than any other physical impairment does. Thank you, Mr. President. [LB998]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Erdman. [LB998]

SENATOR ERDMAN: Thank you, Lieutenant Governor Foley. So I remember last year in HHS, I believe we had a very, very similar bill, and if I remember the number, I think it was like LB552. That bill didn't catch any traction at all in our committee, and so that bill was redrafted and submitted in a different way so that it would go to the Education Committee. So, it is a continuation from last year. I have concerns that it's needless duplication of service of care that's now in place with the Department of Health and Human Services. The system of care is a framework designed for mental health services and supports children and youth who have serious mental disturbances and families through the collaboration across involving public and private agencies families...they're already doing this. Health and Human Services are already meeting these needs. And here we are, we're going to do something that circumvents what they're already doing, duplicate of services, and I don't know exactly if the ESUs don't have enough work, they don't have enough things to do, and so we want to give them one more thing by adding a social worker in their office that some supervisor has to be in charge of. So, additionally, as we look at this, there are currently schools and communities and intervention program and teams in place now, and I don't know why we need to have a duplication of what they're already doing. It would make more sense that we spend our time working together with the group that's already doing this to accomplish what needs to be done rather than creating a whole new area and hiring 17 new social workers and having another group of supervisors. And it doesn't make sense that what we do here is we always have to have supervisors for everybody that we hire. And so one supervisor, one employee, sounds like a good ratio to me. It kind of looks like that's the way we do it. And as I said last week on the floor, I said, you know, if you took away the state employees and the university employees from Lincoln, you'd have Sidney. That's exactly what we do here. We spend a lot of tax dollars because we get all the tax dollars, they come here and then we distribute them. So this is another attempt to start a program that's going to continue to go on for years after that. But we don't have any money to do it now so we'll start with private funds and then when we find out how successful it is, it will be very, very difficult for us to eliminate such a program. Thank you, Mr. Speaker. [LB998 LB552]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Larson. [LB998]

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SENATOR LARSON: Thank you, Mr. President. I've been having a conversation with the members of my staff and had a question for Senator Kolterman; I think he's the only one that can answer it and I'd like it on the record to end the debate. [LB998]

PRESIDENT FOLEY: Senator Kolterman, are you available for a question? [LB998]

SENATOR KOLTERMAN: Yes, I am. [LB998]

SENATOR LARSON: Thank you, Senator Kolterman. Where are you from? Right now, like where do you live? [LB998]

SENATOR KOLTERMAN: Seward, Nebraska. [LB998]

SENATOR LARSON: So are you a "Sewardite" (phonetic), or a "Sewardier" (phonetic) or "Sewardian" (phonetic)? [LB998]

SENATOR KOLTERMAN: Yeah, I'm a river rat. [LB998]

SENATOR LARSON: A river rat. Is that what you're called? The mayor is going to... [LB998]

SENATOR KOLTERMAN: That's what Senator Baker just told me. [LB998]

SENATOR LARSON: The mayor didn't know, so I was just wondering if you knew. [LB998]

SENATOR KOLTERMAN: Doesn't matter, does it, in the grand scheme of things? [LB998]

SENATOR LARSON: Everybody has a name. Thank you, Senator Kolterman. [LB998]

SENATOR KOLTERMAN: Yes. [LB998]

SENATOR LARSON: I'm done. Thank you. [LB998]

PRESIDENT FOLEY: Thank you, Senator Larson. Seeing no further discussion on the bracket motion, Senator Erdman, you're recognized to close on the bracket motion. [LB998]

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SENATOR ERDMAN: Thank you, Lieutenant Governor Foley. I appreciate the fact that...for the opportunity to close on this. I've seen this bill before. We seen it last year in LB552 as I said. So if you introduce a bill to a certain committee and it doesn't catch any traction there so you revamp it, rewrite it and submit it to another committee, hopefully that next committee will grant you what you desire. So it got here to the floor. I was not in favor of it in the committee. As you have well figured out, I'm not in favor of it here either. So I ask you to vote green on MO299. Thank you. [LB998 LB552]

PRESIDENT FOLEY: Thank you, Senator Erdman. The question before the body is adoption of the bracket motion. Those in favor vote aye, those opposed vote nay. Have you all voted who care to? Record, please. [LB998]

CLERK: 7 ayes, 15 nays, Mr. President, on the motion to bracket. [LB998]

PRESIDENT FOLEY: The bracket motion is not successful. [LB998]

CLERK: Mr. President, Senator Hughes would move to amend the committee amendments with AM2366. (Legislative Journal page 921.) [LB998]

PRESIDENT FOLEY: Senator Hughes, you're recognized to open on AM2366. [LB998]

SENATOR HUGHES: Thank you, Mr. President; good afternoon colleagues. I have a very simple amendment here and I will read it off the computer. It adds a phrase...or a section: No educational service unit may receive any revenue from property taxes, any state aid, or other money from the General Fund for a program which the Educational Service Unit administers which was started with private grant funds. I do applaud Senator Linehan, her effort of putting a sunset date on this. I have no problem with putting these individuals in service units. The problem I have is starting a program and then causing it to become permanent. I think this amendment fits very nicely with that bill to make sure that if these programs are started with private dollars and they are proven to be worthy and there are private dollars that want to continue them, I don't see any problem with that at all. Probably drilling down a little deeper on this issue is if all school districts across the state were being treated the same by the TEEOSA formula, I probably would have less heartburn with issues like this. But currently, the majority of the school districts within my legislative district do not receive any state aid. The total bill for running our school district is coming on the back of the property taxpayers. And that's not right. There's no state aid or very little state aid flowing into those school districts. By making sure that these programs that are started, well-intentioned, and if they prove to be a good thing and there are donors out there that wish to continue that, I have no problem. And that's what this bill

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does...my amendment does, excuse me. And I feel that it fits very nicely with the Linehan amendment that has already been adopted and the bill. Thank you, Mr. President. [LB998]

PRESIDENT FOLEY: Thank you, Senator Hughes. Debate is now open on AM2366. Senator Walz. [LB998]

SENATOR WALZ: Thank you, Mr. President. I just want to thank Senator Hughes for his suggestion on the amendment, but I do not feel that it's a friendly amendment. And I think that Senator Linehan's amendment addresses everything that he was trying to address in his amendment. So, thank you. [LB998]

PRESIDENT FOLEY: Thank you, Senator Walz. Senator Kuehn. [LB998]

SENATOR KUEHN: Thank you, Mr. President; thank you, colleagues. I stand in support of AM2366 brought by Senator Hughes. I will not reiterate the points that he hit on in his introduction, but I think he addresses a number of the concerns that I certainly have with the proposal, and that is the potential long-term impact on, in particular, unequalized school districts. Given that ESUs and school districts already have the option of pursuing this, of going out and applying for private dollars, public dollars, expanding social work, and they have the option already, I don't see a need for putting it in statewide. So, again, I still am not sure that we're accomplishing anything with LB998. But certainly since it seems to be the, kind of, movement of the body to move forward, I think Senator Hughes' amendment is essential to ensure that we don't start a program with private dollars and then over time it becomes an obligation of the taxpayer. Certainly the idea of a sunset date is a good step forward, but as we have seen many times over the last several years, sunset dates are very easily extended and the argument, once a sunset date comes close, is look at the program, look at what it's doing, let's extend the sunset. So I stand in full support of Senator Hughes' amendment. Without it, I certainly won't support the bill. I think we have too many open-ended questions in particular for unequalized school districts with this kind of a program beginning with no path forward in terms of its funding mechanism and its implications for taxpayers. Thank you, Mr. President. [LB998]

PRESIDENT FOLEY: Thank you, Senator Kuehn. Senator Groene. [LB998]

SENATOR GROENE: Thank you, Mr. President. Senator Hughes, I want to ask you a question, but I'll lay out the question first. It says here Senator Linehan's amendment that, AM2572, that the program terminates on January 1, 2022, and your amendment says...which can...no property taxes or state aid for any money from the General Fund for a program which the educational service unit administers which was started with private grant funds. Is it in your intention to make sure that when this sunsets, the social workers go away, because it would be...what your

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amendment...which I agree with, they would not be able to transfer over to the...being funded by the local property tax. Is that correct? [LB998]

PRESIDENT FOLEY: Senator Hughes, would you yield, please? [LB998]

SENATOR HUGHES: Of course. I got outmaneuvered by Senator Linehan today. She had an amendment filed before mine and one after mine and then she did the substitution, so I applaud her for her political savvy. It is not my intent that the program should go away. The way my bill is written, it will, since we have adopted her amendment already. But if there are...and they can change the wording of the original program to create it again if someone wants to donate another \$3.5 million, they can bring it back and do the same thing. [LB998]

SENATOR GROENE: Excuse me. But if the funding goes away from donations and they want to keep them employed, they have no choice but to use property taxes and state aid money to pay their wages. Is that not correct? [LB998]

SENATOR HUGHES: Not if we adopt this amendment it isn't. [LB998]

SENATOR GROENE: Then they would go away. [LB998]

SENATOR HUGHES: Correct. [LB998]

SENATOR GROENE: Thank you. I happen to agree with that. But the thing is, an ESU or a school can now...they get a pretty wide berth that they can hire social workers. There are social workers in schools now. There's social workers at ESUs now. It seems to be an attempt...I'm going to go rural again, to go the rural schools...ESUs to employ these social workers because my assumption is some of the larger ones already have them. It's not necessary. Quite frankly, I don't know why a school nurse couldn't have a list of mental health providers when they...when the student is sent to them to let the parents know about their options. I don't know why we have to have this just because you give them title, social worker, because all their training is to facilitate individuals who want to be pointed in a certain direction or don't want to be pointed into a certain direction of where they can access, basically, mostly government programs. I'm sure they can't tell them to go to church on Sunday and maybe they'll change their attitude. But anyway, it's the camel's nose under the door. You know exactly what's going on here. They know they can't get state fundings, they want the program in place with donations, and then they want it to expand after that. You've been around any administrators before, once you put something into the statute, they will tell their elected board, well, there's a statute out there that will...it will

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no longer be "may," it will be we should have a social worker. Ten years down the road it's there and they will make sure... [LB998]

PRESIDENT FOLEY: One minute. [LB998]

SENATOR GROENE: ...that their elected boards understand that they should and shall have one, because who is ever is going look up statutes and say "may" and it started out with donated money, and now it's part of the payroll, we have to have one. Thank you. [LB998]

PRESIDENT FOLEY: Thank you, Senator Groene. Is there any further discussion on the amendment? Seeing none, Senator Hughes, you're recognized to close on AM2366. [LB998]

SENATOR HUGHES: Thank you, Mr. President. Colleagues, I disagree with Senator Walz. I think this is a very friendly amendment to her bill. It just sets some parameters that if someone wants to donate private funds to pay for anything in an ESU that is going to be used for services going out to the schools. It certainly does not prevent that. It certainly allows anybody to make those donations. My concern is that we don't put something in place that becomes perpetual after a certain date or you can change a couple of words in the title of what it does, and it can move on, even though there is a sunset date for that specific title. It's very important that we make sure that all the kids across the state are treated equally. There is a tremendous need by our school children in this state. There's no question about it. We can do a lot of things now, and if we had lots of money we could do more things. The fact that we have someone or someones who is willing to put up \$3.5 million to help give additional counseling staff available to our ESUs for our school districts, that's great. My fundamental concern is that we don't put something in place that comes back on the back of the property taxpayers. And you're going to...as we wind down the last few days here, you're going to get sick and tired of hearing me say property tax, property tax, property tax. If we were starting from a level playing field, if all of the school districts were in the same place, I would have much less heartburn, but we're not. We're way out of whack on who is paying to educate the children of the state of Nebraska. And it's important that we figure out a way to rebalance it. This is not going to rebalance it today, it's not going to rebalance it next year, but it is something that needs to be in place to keep it in balance going into the future. I would urge a green vote on AM2366. Thank you, Mr. President. [LB998]

PRESIDENT FOLEY: Thank you, Senator Hughes. Members, you heard the debate on AM2366. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Senator Hughes. [LB998]

SENATOR HUGHES: I'd like a call of the house and I'll accept call-ins. [LB998]

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PRESIDENT FOLEY: Thank you, Senator Hughes. There's been a request to place the house under call. Those in favor of calling the house vote aye; those opposed vote nay. Record, please. [LB998]

CLERK: 22 ayes, 2 nays, Mr. President, to place the house under call. [LB998]

PRESIDENT FOLEY: The house is under call. Senators, please return to your desk and check in. The house is under call. Please return to the Chamber, check in please. Senators Bolz, Baker, Vargas, Wayne, Murante, Friesen, please return to the Chamber and check in. The house is under call. Senator Wayne, please...oh, here he is. All unexcused members are now present. The question before the body is the adoption of AM2366. Senator Hughes has indicated a willingness to accept call-in votes. [LB998]

CLERK: Senator Murante, voting how, Senator? Yes. Senator Murante voting yes. Senator Larson voting yes. Senator McCollister voting no. Senator Watermeier voting yes. Senator Thibodeau voting no. Senator Erdman...so, Senator Erdman, how do you want to vote? Changing...Senator Erdman changes from no to yes. Senator Vargas voting no. Senator Hilkemann voting no. Senator Friesen voting yes. Senator Kolowski voting...you had voted...you want to change from yes to no? Okay. Very good, thank you. [LB998]

PRESIDENT FOLEY: Record, please. [LB998]

CLERK: 17 ayes, 14 nays on the amendment. [LB998]

PRESIDENT FOLEY: The amendment is not adopted. I raise the call. Continuing discussion on LB998 and the pending committee amendments. Seeing no discussion, Senator Groene, you're recognized to close on the committee amendment. [LB998]

SENATOR GROENE: Thank you, Mr. President. I urge you to vote green on AM2044. We need make sure that there's...we clearly state that there will in be no state funding involved in this into the future, and it's enactment that it's only donations, and if they get them, and then I strongly urge that you also vote red on LB998. [LB998]

PRESIDENT FOLEY: Thank you, Senator Groene. The question before body is the adoption of the Education Committee amendments, AM2044. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB998]

CLERK: 31 ayes, 2 nays on the adoption of committee amendments. [LB998]

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PRESIDENT FOLEY: AM2044 committee amendment is adopted. Is there any further discussion on the bill? Senator Walz, you are recognized to close on the advance of the bill. [LB998]

SENATOR WALZ: Thank you, Mr. President. I want to thank those senators who are supporting this important piece of legislation for our students, as well as the overwhelming support that we received from mental health professionals, school personnel, families across the state. The issue of mental and behavioral health within our state has been an ongoing and increasing problem for years and it's not going away. This is one answer, one answer to get children, educators, and family the resources and the preventive care they need. This is an opportunity to engage families. This is an opportunity for us as legislators to step in and take action to prevent future problems and address the issues our children are facing. It's time to ensure that students who have mental health issues do not get lost in the shuffle of everyday school life and that they are given the resources they need to succeed in the future. This is an important bill for Nebraska children. I ask for a green vote on LB998. Thank you, Mr. President. [LB998]

PRESIDENT FOLEY: Thank you, Senator Walz. Members, you've heard the debate on LB998. The question before the body is the advance of the bill to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB998]

CLERK: 27 ayes, 8 nays, Mr. President, on the advancement of the bill. [LB998]

PRESIDENT FOLEY: LB998 advances. We will proceed to the next bill, General File, 2018, Speaker priority bills. Mr. Clerk. [LB998]

CLERK: Mr. President, LB957 was introduced by Senator Lowe. (Read title.) Introduced on January 10; referred to the Business and Labor Committee; advanced to General File. There are committee amendments, Mr. President. (AM1952, Legislative Journal page 707.) [LB957]

PRESIDENT FOLEY: Is Senator Lowe on the floor, please? Looking for Senator Lowe to introduce his bill. Senator Lowe, you're recognized to open on LB957. [LB957]

SENATOR LOWE: Thank you very much, Mr. President. Sorry I'm late. Thank you, Speaker Scheer, for making LB957 a Speaker priority bill. LB957 is designed to allow workers the choice of being paid electronically or by prepaid card instead of being paid by check for workers compensation claim. This bill will update the Nebraska Workers Compensation System to reflect the modernization efforts that have been made for unemployment payments, child support payments and court garnishments and judgments. In order for this system to work, an employee

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and an employer will have to reach an agreement on how the employee will receive the payment. If no agreement is made, the employee will continue to receive payment as before. The status quo is maintained unless the employee wants to be paid electronically or by prepaid card. After discussions with concerned parties, it became clear that LB957 was unnecessarily complicated. That is why AM1952 was drafted and attached as white copy amendment, thus becoming the bill. And there is an amendment to the committee amendment making a few additional changes. There are a number of changes. Let me go through each to explain how the process is clarified. Language is added that would prohibit an employer from requiring that the employee sign up for the electronic payments at the time of hiring. So an agreement for electronic payments or prepaid card may only be made after an injury subject to the Workers Compensation Act. The amendment removes the requirement that the employee may choose the method of payment if the employee fails to make an election. It is now clear that the employee and the employer must agree before there may be a change in that type of payment and the process to rescind the decision to be paid by the prepaid card or electronic transfer is clarified. Language was added to provide specific protections for an employee who chooses to be paid by prepaid card specifically. The employee is entitled to load, initiate, or transfer payments with no fee, to receive the card with no fee, and to access full payment at least once without a fee. This language is similar to the requirement currently in Nebraska law for employees who get paid by payroll debit cards in Section 48-1229. Language was added to ensure that the employee would have the choice to be paid by check, as well as by direct deposit, prepaid card, or similar electronic payment system. Language is added to allow payments to go directly into an attorney's trust account for the benefit of the employee. In that situation, the attorney would then make the payment to the employee. This is a common practice today when checks are used for payment. And I did not want to interfere with that practice. Again, this process is not required, it is simply an option available. Because the parties continued to work on the bill after it was voted out of committee, there are additional changes to the bill. I filed amendment, AM2659, this morning to address additional concerns brought by the employers, insurers, and trial attorneys. I want to thank Senator Howard for helping to get all sides together to discuss the concerns with this bill. She called the parties together to find common ground. In that meeting, there were nine points of concern brought up, the committee amendment and to AM2659 and to address those nine points. These nine points are: language was added to require a description of the payment being made electronically to include the nature of the payment, as well as who the payment is going to and who the payment is coming from. This is added in AM2659 on page 1, lines 14-17. We clarified that both weekly and lump sums would be available for these new payment methods. This is added in the committee amendment and in AM2659. Language was added to notify the employee that the payment could be garnished or attached in certain situations. Nebraska law currently describes when a worker's compensation payment is made may be garnished. Further information requiring notification of the amount of the garnishment, who requested the garnishment, and the case number of the suit resulting in the garnishment is added in AM2659 on page 1, lines 18-22. Prior to an employee accepting a prepaid card, the employer or insurer

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must provide information as to where the card may be used. This information will assist an employee in deciding whether a prepaid card would be a realistic form of payment. This language is added in AM2659 on page 1, lines 9-13. Language is added on page 2, lines 1-4 to clarify that there would be no fees for making the electronic payment or putting the money onto a prepaid card. The amount of the payment has to be the amount the court orders to be paid. It was requested that we add language to specify what the time lines would be if an employee decided he or she no longer wanted to be paid electronically or by prepaid card. We agreed that notice of the change should be in writing. The change should be made as quickly as possible, that the employee would continue to be paid during the change, and that the employer was also protected while the systems were changed to go back to an older method of payment. This change is added in the committee amendment on page 2, lines 19-25. It is further clarified in amendment AM2659. It was also requested that the specific language be added to allow the agreement to be made or canceled by a legal representative acting on behalf of an employee. This language is added in amendment AM2659 on page 1, line 5, line 21, and line 7 of page 2. In order to make sure that parties had proof of the original agreement or the recession of the agreement is to be made in written or electronic communication. This is added in amendment AM2659 on page 1, line 7; and page 2, line 9. The last request from the meeting was a requirement that the employee would continue to be paid during dependency of the change, and that the change be made in a timely manner when a change in the election process is made. This is added in the committee amendment on page 2, lines 16-29; and again on AM2659 on page 2, lines 11-14. As you can see, LB957 has had significant amount of discussion off the floor and I believe we have done everything possible to satisfy the concerns of those who testified in opposition of the bill in the committee. It has been a great process. Compromise has been reached and, ultimately, I believe LB957 is a better bill because of it. I want to make clear that the process outlined in this bill is entirely optional. [LB957]

PRESIDENT FOLEY: One minute. [LB957]

SENATOR LOWE: Thank you, Mr. President. No one has to be paid electronically or by prepaid card unless they choose to or unless they are already being paid that way in the first place. We are ultimately moving to electronic payments. Eventually checks will disappear and payments will be made electronically. The idea behind LB957 is to allow employees the option of being paid electronically or by prepaid card today and putting protections in place when they will make that choice. LB957 simply gives employees greater flexibility and options with protections. I urge you to vote yes on LB957 and the attached amendments. Thank you, Mr. President. [LB957]

PRESIDENT FOLEY: Thank you, Senator Lowe. As the Clerk indicated, there are amendments from the Business and Labor Committee. Senator Albrecht, you're recognized to open on AM1952. [LB957]

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SENATOR ALBRECHT: Thank you, President Foley. Business and Labor did have a unanimous vote on LB957 out of committee. And LB952, as Senator Lowe has explained, becomes the bill. In addition to that, I would just ask for your support since he has already explained all of it. Thank you. [LB957 LB952]

PRESIDENT FOLEY: Thank you, Senator Albrecht. Mr. Clerk. [LB957]

CLERK: Mr. President. Senator Lowe would move to amend the committee amendments with AM2659. (Legislative Journal pages 1161-1162.) [LB957]

PRESIDENT FOLEY: Senator Lowe, you're recognized to open on AM2659. [LB957]

SENATOR LOWE: Thank you, Mr. President. I think I have pretty much covered all the amendments, but I would like to just say that this is something that's very simple. We want people to be paid in a timely manner. We want them to be paid so that they are comfortable with being paid. If they're being paid by a check now and they do not have a bank account, being paid by a card will allow them to go directly to the store and make purchases. They will be allowed to go to something like a department store and buy clothing or even a Goodwill. They will be able to go to a grocery store, buy groceries immediately, or to a gas station and buy gas immediately instead of going to a bank. This is for the benefit of the people who are being paid a workmen's compensation claim. Thank you, Mr. President. [LB957]

PRESIDENT FOLEY: Thank you, Senator Lowe. Debate is now open on LB957 and the pending amendments. Senator Howard. [LB957]

SENATOR HOWARD: Thank you, Mr. President. I rise in support of LB957 and the accompanying amendments. And I just want to say Senator Lowe did an incredible amount of work on this. And it also...I take very seriously the opportunity to mentor and show people how to do things. Right? Negotiating is not something that is natural to people and when you have these two diametrically opposed parties, it is really important to put them in the same room so they can express their concerns at the same time in front of everybody. And so Senator Lowe really gave me the opportunity to show him how in the past it's worked for me when I have something contentious to make everybody sit in the same room and really outline their concerns which led to nine concerns which led to four concerns which led to no concerns. So I absolutely support all of the amendments and I applaud Senator Lowe for all of his work on this bill. Thank you, Mr. President. [LB957]

PRESIDENT FOLEY: Thank you, Senator Howard. Senator Schumacher. [LB957]

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SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. It seems to me that the insurance carrier or the employer group or whoever that has the obligation to pay these workmen's compensation claims is going to be holding a lot of money to back these cards. And as the people use them up over time and collectively, if they're a big insurance company, we are talking about a lot of interest being accumulated on that fund. So, Senator Lowe, would you yield to a question? [LB957]

PRESIDENT FOLEY: Senator Lowe, would you yield, please? [LB957]

SENATOR LOWE: Yes, I will. [LB957]

SENATOR SCHUMACHER: Senator Lowe, if I had a workmen's comp claim and I had \$100,000 coming, and I had it put on one of these prepaid cards so that I could spend it, because I maybe don't want to have a bank account for any number of reasons, who gets the interest on my \$100,000 until I spend it? [LB957]

SENATOR LOWE: That would be a good question. I don't know if there would be interest because it's not a loan. [LB957]

SENATOR SCHUMACHER: But I'm a big insurance company. I make my living...I make big tall buildings with fancy offices in it, and one of the ways I do that is by never letting a nickel sit around idle. I invest it. I make interest on it. I put it into some fund to get dividends on it, whatever. I take it these do not have to be segregated funds; I can just have these cards available. So, obviously, I, as the insurance company, until the card is cashed in, I am going to get the interest. Unless I am told I can't keep the interest, I sure as heck am going to keep the interest. And so unlike when I would write you a certified check or the company would write me a certified check for \$100,000, in my example, then I would be entitled to get the interest on it. The payer of the card, obviously, is going to hang on to the interest and unless we tell him that they've got to add interest; and I think the interest rate might be even, at least if there is an appeal involved, and I'm not sure if this is 100 percent true, could be as high as 14 percent what I would get on holding the...if I have a claim against the insurance company while I'm waiting payment. But whatever, interest rates are going up. We used to never split hairs over .0000 percent interest, but now the fed is raising it by about a quarter percent every three, four months, so we're going to start talking about serious money here and we need to say who gets the interest on those prepaid cards and that money that is sitting in somebody's account if the payee and the employee is just basically too dumb to ask for the payment so that they can put it in a bank account, then again, they might not want to be garnished or whatever in a bank account. But that's a very legitimate question. And I can't support this until somebody gives me a straight answer or we put

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clear language in here that interest earned on that employee's card will be paid to the employee and not just be a bonus for the insurance company. Thank you. [LB957]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Is there any further discussion on AM2659? Seeing none, Senator Lowe, you are recognized to close on your amendment. [LB957]

SENATOR LOWE: Thank you, Mr. President. [LB957]

PRESIDENT FOLEY: Senator Lowe waives closing. The question before the body is the adoption of AM2659. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB957]

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of Senator Lowe's amendment to the committee amendments. [LB957]

PRESIDENT FOLEY: AM2659 is adopted. Mr. Clerk. [LB957]

CLERK: Mr. President, Senator McDonnell would move to amend with AM2673. (Legislative Journal page 1162.) [LB957]

PRESIDENT FOLEY: Senator McDonnell, you are recognized to open on your amendment. [LB957]

SENATOR McDONNELL: Thank you, Mr. President. This is a friendly amendment that Senator Lowe agrees with. Current law says that when a worker gets a check for disability benefits that is not subject to garnishment or attachment, this is covered by Section 48-149 in current law. This amendment simply takes the language from (Section) 48-149 and applies it to the electronic payments that are authorized by LB957. Again, a friendly amendment that Senator Lowe agrees with. [LB957]

PRESIDENT FOLEY: Thank you, Senator McDonnell. Is there any discussion on AM2673? Seeing none, Senator McDonnell, you're recognized to close on your amendment. Senator McDonnell, did you want to close? He waives closing. The question for the body is the adoption of AM2673. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please. [LB957]

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CLERK: 31 ayes, 0 nays on adoption of Senator McDonnell's amendment to the committee amendments. [LB957]

PRESIDENT FOLEY: AM2673 is adopted. Is there any further discussion on the bill or the pending committee amendment? Seeing none, Senator Albrecht, you're recognized to close on the committee amendment. She waives closing. The question for the body is the adoption of AM1952, committee amendment. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please. [LB957]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB957]

PRESIDENT FOLEY: The committee amendments are adopted. Seeing no further discussion on the bill, Senator Lowe, you are recognized to close on the advance of the bill. [LB957]

SENATOR LOWE: Thank you, Mr. President. It's been a pleasure to work with the committee and Senator Howard and everybody on all sides on this bill. I just urge everybody to vote green. [LB957]

PRESIDENT FOLEY: Thank you, Senator Lowe. The question before the body is the advance of LB957 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record please. [LB957]

CLERK: 35 ayes, 0 nays, Mr. President, on the advancement of the bill. [LB957]

PRESIDENT FOLEY: LB957 advances. We'll move to the next bill, please. [LB957]

CLERK: Legislative bill, LB751 is a bill introduced by the Performance Audit Committee. (Read title.) Introduced on January 3 of this year; referred to the Executive Board for public hearing. The bill was advanced to General File. I have no amendments to the bill, Mr. President. [LB751]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Kuehn, you're recognized to open on LB751. [LB751]

SENATOR KUEHN: Thank you, Mr. President; and thank you, colleagues. It is my pleasure as Chair of the Legislative Performance Audit Committee to introduce LB751. And I would like to thank Speaker Scheer for making this bill a Speaker priority. The committee introduced LB751

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to make some changes in the manner in which state agencies report to the Legislature on rules and regulations that they are required to develop. The short and streamlined version of the very simple and basic changes in the reporting mechanism made by LB751 is to address the practical implication and some of the challenges of LB617 adopted in 2011. Currently, the law requires agencies to report to the Performance Audit Committee the status of all regulations, not just the ones required by legislative bills. And that reporting became a burden for the agencies and for the audit office which is tasked with receiving the reports. Additionally, agencies were required to report some information about regulations to the audit office and some to the Executive Board and standing committees which became confusing and certainly was more complicated than necessary. LB751 would simplify and streamline the reporting process while preserving the accountability that the Legislature was looking for in the original bill. To do this, LB751 makes a couple of basic changes. First, it changes the reports to the Legislative Performance Audit Committee from the regulations to only those regulations that are required by legislative bills. Those are the regulations of greatest concern to the Legislature when the reporting requirements were adopted, and it make sense to focus our efforts on them. Second, for mandatory regulations that have not met statutory deadlines, LB751 eliminates the requirement that agencies report explanations about the delays to either the Executive Board or the standing committees, but instead that the agencies would include that information in the reports that they are already providing to the Legislative Audit Office up front. This will streamline the process by allowing the audit office to ask for the information initially rather than following up and direct the appropriate information to the Executive Board and standing committees. Also included is a provision that allows the Executive Board and standing committees to request information from any agency if they so choose. I thank you for your time and attention to LB751. I'm happy to answer any questions you may have and encourage your green vote for advancement. Thank you, Mr. President. [LB751]

PRESIDENT FOLEY: Thank you, Senator Kuehn. Debate is now open on LB751. Seeing no discussion, Senator Kuehn, you're recognized to close on the bill. He waives closing. The question before the body is the advance of LB751 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB751]

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of the bill. [LB751]

PRESIDENT FOLEY: LB751 advances. We'll move to the next bill, please. [LB751]

CLERK: Legislative bill, LB1121 is a bill by Senator Larson. (Read title.) Introduced on January 18; referred to the Banking, Commerce and Insurance Committee. It was advanced to General File. I do have committee amendments. (AM1913, Legislative Journal page 659.) [LB1121]

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PRESIDENT FOLEY: Senator Larson, you are recognized to open on LB1121. [LB1121]

SENATOR LARSON: Thank you, Mr. President. I'll apologize in advance for my lengthy and somewhat dull opening on LB1121, which proposes to adopt the Uniform Protected Series Act, otherwise the UPSA, which is the uniform law promulgated by the National Conference of Commissioners on uniform state laws, also known as the Uniform Law Commission. The UPSA was promulgated in response to the growing popularity of series limited liability companies in the United States. The UPSA is the first comprehensive statute governing series limited liability companies; and as such, the UPSA was drafted as a model to be inserted and to enacting state's existing LLC act. The act uses the term "protected series" to highlight the internal liability shields which are defining characteristics of the act and to avoid confusion with the term "series" which is often used to refer to classes of interest and businesses entities that do not affect liabilities to third parties. If the requirements of the UPSA are satisfied, then assets, referred to as associate assets, are one protected series or not available to satisfy claims of creditors of the LLC or of other protected series of the LLC. That provides two different types of liability shields, vertical and horizontal. The traditional vertical shield protects equity holders and managers from status-based liability for an organization's obligations. The horizontal shield protects a protected series of series LLC and its associated assets from liability for the debts, obligation, and other liabilities of a company or another protected series of a company. A protected series properly established and maintained under the act is shielded from liability for the obligations of the LLC and other protected series of the LLC so judgment creditors of the LLC and others protected series of the LLC may not satisfy their claims against assets of the protected series. The UPSA provides comprehensive recordkeeping requirements and transparency provisions. LB1121 provides the UPSA to be integrated within the Nebraska Uniform Limited Liability Company Act originally enacted in 2010. A brief history, I introduced LB168 in 2015 and LB292 in 2017. Both bills presented the innovative business concept of series LLC to Nebraska. Just prior to the LB292 hearing, it was brought to my attention that the Uniform Law Commission was in the process of developing model legislation to be finalized later in 2017. At such time I encouraged the committee's support of the concept and consideration of the measure to be introduced in the 2018 legislative session to the recommendations of the ULC which I am presenting before you today in LB1121. The implementation of series LLCs in Nebraska would provide business owners with an efficient and effective means of structuring multiple business entities under one LLC. The LLC, as well as each protected series would be treated as a separate entity with its own debts, liabilities, and obligations. Such debts, liabilities, and obligations of each series would only be enforceable against that particular series and not against any other series or against the main LLC. Additionally, each series would have its own members, managers, interest, assets, and business purpose separate from the LLC or other series. Series LLCs provide the ability for a business owner to effectively separate and protect assets. Business owners with both high-risk and low-risk assets are able to spread out those risks among series and align creditors with those assets, while at the same time affording protections to the assets of other

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series and the LLC as a whole. The series LLC model is particularly beneficial for those individuals with extensive real estate investments, franchise businesses, and those in the agricultural industry. The series LLC is a relatively novel concept in the business world. As such, I greatly appreciate the work of the commission and their efforts in creating extensive framework to provide uniformity across the states. Likewise, I greatly appreciate the support of the Banking, Commerce and Insurance Committee members in moving this legislation forward, and thank Speaker Scheer for making this a Speaker priority. Enactment of LB1121, the Nebraska Uniform Protected Series Act would provide business owners throughout the state with an opportunity to utilize and streamline a organized business structure. Thank you, Mr. President. [LB1121 LB292]

PRESIDENT FOLEY: Thank you, Senator Larson. As the Clerk indicated, there are amendments from the Banking Committee. Senator Lindstrom, you are recognized to open on the committee amendments. [LB1121]

SENATOR LINDSTROM: Thank you, Mr. President. The committee amendments to LB1121 would make changes to the bill's sections containing its transitional provisions. The amendments would move the operative date of the bill from January 1, 2019, to January 1, 2021, and would also correspondingly move a transitional date that the Uniform Law Commissioners call the all-inclusive date. When this bill was drafted, an operative date was added. At the time, references in the uniform text to an effective date should have been changed to operative date, but they were overlooked. These amendments would make those corrections. Moving back the operative date of this bill would provide ample time for interested persons, especially the practicing bar, to study this uniform act and develop appropriate Nebraska specific amendments and get them in front of the Legislature before the operative date arrives. Those are the committee amendments, and I would urge the adoption of...the advancement of LB1121 so we can proceed with the enactment of Nebraska's version of the Uniform Protected Series Act. Thank you, Mr. President. [LB1121]

PRESIDENT FOLEY: Thank you, Senator Lindstrom. Debate is now open on LB1121 and the pending committee amendment. Senator Chambers. [LB1121]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I cannot allow Senator Larson to have this moment of untarnished glory, so I will say even a stopped clock is right twice a day. [LB1121]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Schumacher. [LB1121]

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SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. For those of you that will be here, you can expect to see this back again, because this is kind of prototype language that has been pushed out by the Uniform Law Commission, which the Banking and Insurance Committee adopted in order to bring the local forces together and hash out a more comprehensive version of it tailored toward Nebraska. And for that reason it has an operative date that's way out into the future because work is going to be...need to be done. This is a fairly complicated thing where you deal with sub-LLCs all linked together in like almost an internet web of LLCs owned by somebody. So just expect that this will be brought out again and you will be dealing with this topic, hopefully, in a fully refined and implementable version down the road, and that's the reason for the long lead time before implementation, and the effective date being way out there. Thank you. [LB1121]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Is there any further discussion on LB1121 or the pending committee amendment? Seeing none, Senator Lindstrom. He waives closing. The question before the body is the adoption of the committee amendment, AM1913. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB1121]

CLERK: 27 ayes, 0 nays on adoption of committee amendments. [LB1121]

PRESIDENT FOLEY: Committee amendments are adopted. Seeing no further discussion on the bill, Senator Larson, you're recognized to close. He waives closing. The question before the body is the advance of LB1121 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB1121]

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of LB1121. [LB1121]

PRESIDENT FOLEY: LB1121 advances. Next bill, please. [LB1121]

CLERK: LB1121A is a bill by Senator Larson that appropriates funds to implement LB1121. [LB1121A]

PRESIDENT FOLEY: Senator Larson, you are recognized to open on LB1121A. [LB1121A]

SENATOR LARSON: Thank you, Mr. President. With the adoption of the committee amendment, it will just be cash funds. I am sure that amendment will come on Select File. It won't have a General Fund expenditure as the fiscal note reads, since we adopted the committee

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amendment. And I have been assured that the cash funds are there, so I would urge your vote for LB1121A. Thank you, Mr. President. [LB1121A]

PRESIDENT FOLEY: Thank you, Senator Larson. Is there any discussion on LB1121A? Seeing none, Senator Larson waives closing. The question before the body is the advance of LB1121A to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record please. [LB1121A]

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of LB1121A. [LB1121A]

PRESIDENT FOLEY: LB1121A advances. Items for the record, please. [LB1121A]

CLERK: Mr. President, a new resolution: Senator Kolterman offers LR376, interim study resolution. Senator Walz would like to print an amendment to LB998. New A bill: (Read LB1034A by title for the first time.) (Legislative Journal pages 1163-1164.) [LB998 LB1034A LR376]

Mr. President, Senator Baker would move to recess the body until 6:00.

PRESIDENT FOLEY: Members, you heard the motion to recess until 6:00 p.m. Those in favor say aye. Those opposed say nay. We are in recess until 6:00 p.m.

RECESS

PRESIDENT FOLEY PRESIDING

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

ASSISTANT CLERK: There's a quorum present, Mr. President.

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

ASSISTANT CLERK: There are, Mr. President. I have a notice of committee hearing from the Government, Military and Veterans Affairs Committee. Your Committee on Government reports LB1058, LB1065, and LB1115, all to General File with committee amendments. New

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resolutions: LR377 by Senator Lowe, LR378 by Senator Larson, and LR379 by Senator Kuehn, all interim studies which will be referred to the Reference Committee. (Legislative Journal pages 1164-1169.) [LB1058 LB1065 LB1115 LR377 LR378 LR379]

PRESIDENT FOLEY: Thank you, Mr. Clerk. We're now going to proceed to consent calendar. And the 15 minutes will begin expiring as soon as the Clerk announces the bill. Let's proceed to the first bill, Mr. Clerk.

ASSISTANT CLERK: First bill, LB497 by Senator Brewer. (Read title.) The bill was introduced on January 18; referred to the Government, Military and Veterans Affairs Committee; placed on General File with no committee amendments. [LB497]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Brewer, you're recognized to open on LB497. [LB497]

SENATOR BREWER: Thank you, Mr. President. Colleagues, LB497, very simply, takes the required paper copy with raised seal form for the Department of Defense, DD Form 214, and turns it into an electronic version so that it can be used for electronic forms. And that's it. [LB497]

PRESIDENT FOLEY: Thank you, Senator Brewer. Is there any discussion on LB497? Seeing none, Senator Brewer, you're recognized to close on the advance of the bill. He waives closing. The question before the body is the advance of LB497. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB497]

ASSISTANT CLERK: 34 ayes, 0 nays on the advancement of the bill. [LB497]

PRESIDENT FOLEY: LB497 advances. Next bill, please. [LB497]

ASSISTANT CLERK: LB629, introduced by Senator Larson. (Read title.) The bill was introduced on January 18, referred to the Transportation Committee, placed on General File with no committee amendments. [LB629]

PRESIDENT FOLEY: Senator Larson, you're recognized to open on LB629. [LB629]

SENATOR LARSON: Good evening, colleagues. After Congress passed the FAST Act, Fixing America's Surface Transportation, it provides the state, at its discretion, may waive the

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requirement for a holder of a Class A commercial driver's license to obtain a hazardous materials endorsement to transport 1,000 gallons or less of diesel fuel. Current law allows for the transport of 119 gallons of diesel fuel without a hazardous materials permit. Under the same...the particulars of the bill, LB629 proposes to change these provisions of law and adopt the updated federal regulations. I'd appreciate your support. Thank you. [LB629]

PRESIDENT FOLEY: Thank you, Senator Larson. Any discussion of the bill? Seeing none, Senator Larson, you're recognized to close on the advance of the bill. He waives closing. The question before the body is the advance of LB629 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB629]

ASSISTANT CLERK: 28 ayes, 0 nays on the advancement of the bill. [LB629]

PRESIDENT FOLEY: LB629 advances. Next bill, please. [LB629]

ASSISTANT CLERK: LB799, introduced by Senator Kolterman. (Read title.) The bill was introduced on January 4; referred to the Banking, Commerce and Insurance Committee; placed on General File with no committee amendments. [LB799]

PRESIDENT FOLEY: Senator Kolterman, you're recognized to open on LB799. [LB799]

SENATOR KOLTERMAN: Good evening, Mr. President, fellow colleagues. I'm here to ask for your support of LB799. Thank you, Mr. Speaker, for adding it to the consent calendar agenda. The Nebraska Department of Insurance director, Bruce Ramage, asked that I introduce LB799 on behalf of his agency. It cleans up a couple of items in the Surplus Lines Insurance Act. Surplus lines insurance is insurance for specialized risk that cannot be found on the admitted market in Nebraska. LB799 makes two simple changes. First, it harmonizes the filing dates of a quarterly report with the dates of quarterly tax filings of surplus lines licensees, who are specialized insurance producers and who sell surplus lines insurance to consumers. And second, the bill amends the penalty provisions of the Surplus Lines Insurance Act to allow the department to pursue a penalty on a surplus lines licensee without first issuing a cease-and-desist order. LB799 is noncontroversial and I am aware of no opposition. The issue, surplus lines of insurance, is not a controversial subject. During the Banking, Commerce and Insurance Committee hearing, Director Ramage and I were the only two testifiers on the legislation. No one testified against LB799. The bill, in short, has no General Fund impact and was reported to General File without a dissenting vote. Thank you, colleagues. And I would ask for your...that you vote green on LB799. [LB799]

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PRESIDENT FOLEY: Thank you, Senator Kolterman. Is there any discussion on the bill? Seeing none, Senator Kolterman, you may close. He waives closing. The question before the body is the advance of LB799 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please. [LB799]

ASSISTANT CLERK: 31 ayes, 0 nays on the advancement of the bill. [LB799]

PRESIDENT FOLEY: LB799 advances. Next bill, please. [LB799]

ASSISTANT CLERK: LB812, introduced by Senator Lindstrom. (Read title.) The bill was introduced on January 4, referred to the Banking Committee. That committee placed the bill on General File. [LB812]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Lindstrom, you're recognized to open on LB812. [LB812]

SENATOR LINDSTROM: Thank you, Mr. President. LB812 was introduced at the request of the director of Banking and Finance. It's our housekeeping...annual housekeeping measure that keeps us in compliance at the federal level. It came out of committee 8-0, and would appreciate your support on LB812. [LB812]

PRESIDENT FOLEY: Thank you, Senator Lindstrom. Is there any discussion on the bill? Seeing none, Senator Lindstrom waives closing. The question before the body is the advance of LB812 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please. [LB812]

ASSISTANT CLERK: 30 ayes, 0 nays on the advancement of the bill. [LB812]

PRESIDENT FOLEY: LB812 advances. Next bill, please. [LB812]

ASSISTANT CLERK: LB815, introduced by Senator Schumacher. (Read title.) The bill was introduced on January 4 of this year, referred to the Banking Committee, placed on General File by that committee. [LB815]

PRESIDENT FOLEY: Senator Schumacher, you're recognized to open on LB815. [LB815]

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SENATOR SCHUMACHER: Thank you, Mr. President, and members of the body. LB815 was brought by me on behalf of the Department of Insurance. I thank the Speaker for placing it on the consent calendar. It is noncontroversial, advanced out of the committee 8-0 with no opposing testimony. It is a bill that deals with reinsurance. And to use the department's word, it provides the department with authority to issue a rule and regulation governing the valuation of assets, the amount and form of security, and the circumstances where credit for reinsurance would be eliminated or reduced for a captive utilized by the life insurer for reserving term and universal life policies. And if you understood that the first time through, you did better than I did. Basically, insurance companies have got to maintain reserves. They've got to prove up those reserves. There's a number of ways that they can do so. And in using this device of captive insurers, a lot of confusion was generated through the insurance business, not so much so here in Nebraska but across the country, that the National Association of Insurance Commissioners came up with this model law so everybody would be playing by basically the same rules in evaluating the security that insurance companies hold for term and universal life policies. I encourage your advancement of LB815 so that we're consistent with what's happening across the insurance world and maintain our leadership in the insurance field. Thank you. [LB815]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Is there any discussion on LB815? Seeing none, Senator Schumacher, you may close. He waives closing. The question before the body is the advance of LB815 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please. [LB815]

ASSISTANT CLERK: 34 ayes, 0 nays on the advancement of the bill. [LB815]

PRESIDENT FOLEY: LB815 advances. Next bill, please. [LB815]

ASSISTANT CLERK: LB733 by Senator Thibodeau. (Read title.) The bill was introduced on January 3, referred to the Transportation Committee, placed on General File with no committee amendments. [LB733]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Thibodeau, you're recognized to open on LB733. [LB733]

SENATOR THIBODEAU: Thank you, Mr. President. And thank you, Speaker Scheer, for putting this bill on the consent agenda. Colleagues, LB733 was introduced on behalf of the Department of Transportation. This bill makes simple reforms to how the licenses of county highway and city street superintendents are renewed. It will change the duration of a Class B county highway or city superintendent license from one year to three years. This will match the three-year duration of the Class A advanced license, which avoids the burden of annual renewal

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for Class B license holders. This revision would result in a more cost-efficient system because of the reduced NDOT staff hours needed to process these license renewals, and it would result in approximately a two-thirds decrease in the number of license renewals the Board of Examiner's would need to review annually. It is important to note that LB733 also would have no direct fiscal impact because the \$10 annual renewal fee would now simply become a three-year renewal for \$30. So thank you, Mr. President. And I encourage a green vote on this bill. [LB733]

PRESIDENT FOLEY: Thank you, Senator Thibodeau. Is there any discussion of the bill? Seeing none, Senator Thibodeau, you may close if you care to. She waives closing. The question before the body is the advance of LB733 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB733]

ASSISTANT CLERK: 35 ayes, 1 nay on the advancement of the bill. [LB733]

PRESIDENT FOLEY: LB733 advances. Next bill, please. [LB733]

ASSISTANT CLERK: LB847 by Senator Ebke. (Read title.) The bill was introduced on January 5, referred to the Judiciary Committee, placed on General File with no committee amendments. [LB847]

PRESIDENT FOLEY: Senator Ebke, you're recognized to open on LB847. [LB847]

SENATOR EBKE: Thank you, Mr. President. And thank you, Speaker Scheer, for placing LB847 on the consent calendar. LB847 responds to the Nebraska Supreme Court's decision In re Estate of Psota, which interpreted Section 30-2316, related to a surviving spouse's waiver of rights to the property or estate of a decedent spouse. In its decision, the Supreme Court focused on the language you see added in the bill on page 2, line 10. The absence of the word "or" between subsection (b)(1) and subsection (b)(2). The court held that because "or" was omitted, a surviving spouse must prove the facts in both (b)(1) and (b)(2); that is, the surviving spouse must prove that his or her waiver was both not voluntarily executed and unconscionable at the time of execution. The bill responds to the Opinion and adds "or" between subsection (b)(1) and (b)(2) so that a surviving spouse only has to prove that his or her waiver was not voluntary or was unconscionable. The Supreme Court's decision was focused on similar statutory language in a separate statutory section, Section 42-1006, related to premarital agreements generally. The Nebraska State Bar Association researched the legislative history of these provisions and determined that the most likely reason the "or" does not appear in the original law is due to a typographical or scrivener's error. LB847 is meant to align the two sections and respond to the Supreme Court's decision. LB847 is one of two bills I have introduced this year where the

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omission of the word "or" could have significant substantive consequences for certain persons if the word is not added back in. Passing LB847 will better clarify the requirements under the law and ensure that the intent of the statute is effectuated. The bill saw no opposition at hearing and advanced from the Judiciary Committee by a vote of 7 to 0, with 1 member absent. For these reasons, I ask for your green vote on LB847. [LB847]

PRESIDENT FOLEY: Thank you, Senator Ebke. Is there any discussion on LB847? Seeing none, Senator Ebke, you're recognized to close. She waives closing. The question before the body is the advance of LB847 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB847]

ASSISTANT CLERK: 33 ayes, 0 nays on advancement of the bill. [LB847]

PRESIDENT FOLEY: LB847 advances. Next bill, please. [LB847]

ASSISTANT CLERK: LB848, introduced by Senator Ebke. (Read title.) The bill was introduced on January 5, referred to Judiciary Committee, placed on General File with no committee amendments. [LB848]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Ebke, you're recognized to open on LB848. [LB848]

SENATOR EBKE: Thank you, Mr. President. And thank you once again, Speaker Scheer, for putting LB848 on consent calendar. LB848 is the other "or" bill. It makes minor technical adjustment to Nebraska Revised Statute 28-1206. The bill inserts the word "or" between subsections (1)(a)(ii) and (1)(a)(iii) and corrects a drafting error from changes to the statute that were approved last year. LB178 was passed last year and made certain changes to Nebraska's protection order statute to allow individuals an easier path to renewal when a renewal is warranted. Because the bill opened up provisions in the statute that impact provisions related to possession of a deadly weapon by a prohibited person, a drafting change was made to restructure the law to be easier to read and understand. Unfortunately, when Nebraska Revised Statute 28-1206 was restructured, an "or" was removed because it was apparently determined to be redundant. In reviewing the statutory changes made last session over the interim, the Revisor's Office realized that the deletion of this "or" might likely have a substantive impact on the application of the law. Such a change was not intended when LB178 was passed. LB848 simply seeks to fix this error from last year and ensure the intent of the statute is effective moving forward. For those reasons, I ask for your green vote on LB848. [LB848 LB178]

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PRESIDENT FOLEY: Thank you, Senator Ebke. Is there any discussion on the bill? Senator Ebke, you're recognized to close on the bill. She waives closing. The question before the body is the advance of LB848 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB848]

ASSISTANT CLERK: 32 ayes, 0 nays on the advancement of the bill. [LB848]

PRESIDENT FOLEY: LB848 advances. Next bill, please. [LB848]

ASSISTANT CLERK: LB732, introduced by Senator Riepe. (Read title.) The bill was introduced on January 3, referred to the Health and Human Services Committee, placed on General File with committee amendments. (AM1526, Legislative Journal page 474.) [LB732]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Riepe, you're recognized to open on LB732. [LB732]

SENATOR RIEPE: Thank you, Mr. President, colleagues, and Nebraskans. And also thank you to Speaker Scheer for placement of this particular bill on the consent calendar. LB732 is a simple bill. It moves the annual Children's Commission report from December 1 to September 1 for each year the commission is continued. LB732 came out of committee 7-0 with no opposition. After attending the Children's Commission retreat, a concern and discussion regarding providing the most meaningful information to the Legislature prior to the start of session, a September date will allow an opportunity to work on legislation based on recommendations from the Children's Commission. I ask for your green vote on LB732. [LB732]

PRESIDENT FOLEY: Thank you, Senator Riepe. Did that opening include the committee amendment, Senator, or did you want to open separately on that? [LB732]

SENATOR RIEPE: I was going to open separate on the amendment. [LB732]

PRESIDENT FOLEY: Yeah, please proceed. [LB732]

SENATOR RIEPE: Thank you, Mr. President, and again, Speaker Scheer. AM1526 is the amendment and also updates the subcommittees of the Children's Commission reports to September 1. These subcommittees include the Normalcy Task Force, the Bridge to Independence Advisory Committee, and the Juvenile Services Committee. I ask for your green vote for AM1526 and LB732. Thank you. [LB732]

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PRESIDENT FOLEY: Thank you, Senator Riepe. Debate is now open on the bill and committee amendment. Seeing no discussion, Senator Riepe, you're recognized to close on the committee amendment. The question before the body is the adoption of the committee amendment, AM1526. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB732]

ASSISTANT CLERK: 35 ayes, 0 nays on the adoption of committee amendments. [LB732]

PRESIDENT FOLEY: Committee amendments are adopted. Any further discussion on the bill? Senator Riepe, you may close. He waives closing. The question before the body is the advance of LB732 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please. [LB732]

ASSISTANT CLERK: 36 ayes, 0 nays on the advancement of the bill. [LB732]

PRESIDENT FOLEY: LB732 advances. Next bill, please. [LB732]

ASSISTANT CLERK: LB840, introduced by Senator Riepe. (Read title.) The bill was introduced on January 4, referred to the Health and Human Services Committee, placed on General File with committee amendments. (AM1596, Legislative Journal page 477.) [LB840]

PRESIDENT FOLEY: Senator Riepe, you're recognized to open on LB840. [LB840]

SENATOR RIEPE: Thank you, Mr. President. Good evening, colleagues and Nebraskans. And also again thank you, Senator Scheer, for placement of this particular bill on the consent calendar. LB840 is another simple Health and Human Services bill. The bill requires the Foster Care Review Office to submit a report electronically on March 1, June 1, September 1, and December 1. The September 1 report is designated as the annual report. The changes also provide clarification regarding reporting requirements. I believe this change will allow Foster Care Review...the Foster Care Review Office the ability to provide the most meaningful information to the Legislature prior to the start of session. A September date will allow an opportunity to work on legislation based on recommendations from the Foster Care Review Office. LB840 was voted out of committee unanimously. And with that, I ask for your green vote. Thank you. [LB840]

PRESIDENT FOLEY: Thank you, Senator Riepe. You may open on the committee amendment. [LB840]

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SENATOR RIEPE: Yes, sir. Thank you, Mr. President, and again, Speaker Scheer. AM1596 is an amendment that adds the term "juvenile justice" to the Foster Care Review Office reporting requirements. The Foster Care Review Office already provides analysis regarding juvenile justice, but this term needed to be added to statute for additional clarification. Again, with that, I ask you for your green vote for AM1596 and LB840. [LB840]

PRESIDENT FOLEY: Thank you, Senator Riepe. Debate is now open on the bill and committee amendment. Senator Schumacher. [LB840]

SENATOR SCHUMACHER: Thank you, Mr. President, and members of the body. We're rolling along so, so well that I don't want to delay the wheels of activity here tonight. But the words "juvenile justice" added to the realm of Foster Review Board's duties does give me some concern, and it's not concern that probably can easily or appropriately be gone into tonight. But I call it to the body's attention. It may be something we have to address on Select File. Thank you. [LB840]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Is there any further discussion on the bill or committee amendment? Senator Riepe, you're recognized to close on the committee amendment. He waives closing. The question before the body is the advance of the committee amendment...excuse me, the adoption of the committee amendment. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please. [LB840]

ASSISTANT CLERK: 35 ayes, 0 nays on the adoption of committee amendments. [LB840]

PRESIDENT FOLEY: AM1596, committee amendment, is adopted. Any further discussion on the bill? Senator Riepe, you're recognized to close on the advance of the bill. He waives closing. The question before the body is the advance of LB840 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please. [LB840]

ASSISTANT CLERK: 35 ayes, 0 nays on the advancement of the bill. [LB840]

PRESIDENT FOLEY: LB840 advances. Next bill, please. [LB840]

ASSISTANT CLERK: LB708, introduced by Senator Bolz. (Read title.) The bill was read for the first time on January 3, referred to the Judiciary Committee, placed on General File with committee amendments attached. (AM1632, Legislative Journal page 519.) [LB708]

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PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Bolz, you're recognized to open on LB708. [LB703]

SENATOR BOLZ: Thank you, Mr. President. Last year this body advanced LB180, which established bridge orders transferring juvenile court cases to a district court when that could be appropriately done. This has effectively helped move cases out of the child welfare system when appropriate decisions have been made regarding custody, physical care, and visitation. LB708 makes some minor adjustments to the legislation we passed last year after having a year's worth of implementation. Those minor changes include that the bill would clarify that the juvenile court must obtain child custody determinations from foreign jurisdictions when it is necessary and feasible to do so. The bill further clarifies that the transfer of jurisdiction from juvenile court to district court shall not result in filing fees or other court costs, and clarifies that nothing in the statute is to interfere with the jurisdictional provisions of existing statute as it relates to domestic relation matters, specifically paternity and custody determinations. The amendment simply adds a small reference in the bill to recognize that paternity may be established by a notarized acknowledgment. And that is the summary of LB708. I would appreciate your support. [LB708 LB180]

PRESIDENT FOLEY: Thank you, Senator Bolz. As the Clerk indicated, there are amendments from Judiciary Committee. Senator Ebke, you're recognized to open on the committee amendments. [LB708]

SENATOR EBKE: Thank you, Mr. President. AM1632 to LB708 simply adds a reference to the bill to Nebraska Revised Statute 43-1409 to recognize that paternity may be established by notarized acknowledgment. The original draft of the bill inadvertently left out this reference when addressing the ways paternity could be established. LB708 saw no opposition testimony at hearing and was advanced to General File by a vote of 7 to 0 with 1 member absent. LB708 is simply cleanup legislation for a bill that was passed last year. The legislation is good and LB708 should be approved. For those reasons, I ask for your green vote on AM1632 and LB708. [LB708]

PRESIDENT FOLEY: Thank you, Senator Ebke. Is there any discussion on the bill or committee amendment? Seeing none, Senator Ebke, you're recognized to close. She waives closing on the committee amendment. The question before the body is the adoption of AM1632, committee amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB708]

ASSISTANT CLERK: 38 ayes, 0 nays on the adoption of committee amendments. [LB708]

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PRESIDENT FOLEY: AM1632, committee amendment, is adopted. Any further discussion on the bill? Senator Bolz, you're recognized to close on the advance of the bill. She waives closing. The question before the body is the advance of LB708 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please. [LB708]

ASSISTANT CLERK: 38 ayes, 0 nays on the advancement of the bill. [LB708]

PRESIDENT FOLEY: LB708 advances. Next bill, please. [LB708]

ASSISTANT CLERK: LB885, introduced by Senator Harr. (Read title.) The bill was introduced on January 8, referred to the Revenue Committee. That committee placed the bill on General File with committee amendments. (AM1626, Legislative Journal page 552.) [LB885]

PRESIDENT FOLEY: Senator Harr, you're recognized to open on LB885. [LB885]

SENATOR HARR: Thank you, Mr. President. And thank you, Mr. Speaker, for putting this on consent. LB885 is intended to provide notice to property owners when someone else protests the value of their property. In a typical valuation cycle, a property owner receives notice of the valuation of his or her property and has an opportunity to protest the valuation to the county board of equalization or referee. The county board of equalization determines whether the value should be adjusted, and the parties can appeal to TERC. This year, in one southwestern county, a taxpayer filed protests on all the CREP acres in the county, not just property he owned but on every parcel. Except (inaudible), the property owners had no idea that the valuation of their property could be subject to an adjustment by the county board of equalization, because there is no statutory requirement for the property owner to receive notice or have opportunity to defend the value of his or her property when someone else files a protest. LB885 would require county clerks to send copies of protest Form 442 to the property owner when someone else has protested the valuation of the property. When the county board of equalization makes a decision, the clerk would also be required to send a copy to the taxpayer. The Revenue Committee advanced LB885 on an 8-0 vote out of committee with AM1626, which authorizes a designated individual to protest on behalf of the property owner. I would ask for your support. Thank you. [LB885]

PRESIDENT FOLEY: Thank you, Senator Harr. There are amendments from Revenue Committee. Senator Smith, you're recognized to open on the committee amendment. [LB885]

SENATOR SMITH: Thank you, Mr. President. Concerns were raised during the hearing on the bill regarding commercial property managers and others who routinely handle property tax matters for the property owner. There was also concern with requiring the county clerk to include

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all attachments with the protest. AM1626, a committee amendment, serves to address these issues. The amendment requires that the person signing the protest must indicate if they are an owner or a person authorized by the owner to protest on their behalf. Persons authorized to protest on behalf of the owner must provide such authorization with the protest. It still requires notice to the owner if the protest is filed by someone who is not an owner and has not been authorized to protest the valuation. Also, the amendment removes the requirement to send copies of all attachments along with the protest to the owner. Only the protest and the board's determination are required to be sent to the owner. Thank you, Mr. President. [LB885]

PRESIDENT FOLEY: Thank you, Senator Smith. Debate is now open on LB885 and the pending committee amendment. Senator Erdman. [LB885]

SENATOR ERDMAN: Thank you, Lieutenant Governor Foley. I was wondering if Senator Harr would yield to a question. [LB885]

PRESIDENT FOLEY: Senator Harr, would you yield, please? [LB885]

SENATOR HARR: Yes. [LB885]

SENATOR ERDMAN: Senator Harr, with the amendment that Senator Smith just read into the record, does that mean that if someone wants to protest a parcel they can't do that as they can now; they have to get permission from the owner? [LB885]

SENATOR HARR: If they want to protest a neighbor's parcel, it just requires that there be notice so that that person whose property is being protested will know. [LB885]

SENATOR ERDMAN: And now, the way the law states, that's not the case, right? [LB885]

SENATOR HARR: That is not the case right now, correct. [LB885]

SENATOR ERDMAN: When I was a county commissioner, we had several occasions where people would come in and protest the valuation of a person...a personal property or real property. And after that happened to me the first time, I realized that he was only the farmer, he wasn't the owner. And he was intending to buy the property, so he was trying to lower the value. So I understood that. So Senator Smith and the Revenue Committee's amendment would stop people from protesting someone's property unless they had permission? [LB885]

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SENATOR HARR: Yes. [LB885]

SENATOR ERDMAN: Okay, thank you. [LB885]

PRESIDENT FOLEY: Thank you, Senators Erdman and Harr. Any further discussion? Senator Smith waives closing on AM1626, committee amendment. Those in favor of the adoption of the amendment vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB885]

ASSISTANT CLERK: 32 ayes, 0 nays on the adoption of committee amendments. [LB885]

PRESIDENT FOLEY: Committee amendments are adopted. Any further discussion on the bill? Senator Harr, you're recognized to close. He waives closing. The question before the body is the advance of LB885 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please. [LB885]

ASSISTANT CLERK: 32 ayes, 0 nays on the advancement of the bill. [LB885]

PRESIDENT FOLEY: LB885 advances. Next bill, please. [LB885]

ASSISTANT CLERK: LB1012, introduced by Senator Harr. (Read title.) The bill was introduced on January 16; referred to the Banking, Commerce and Insurance Committee. That committee advanced the bill to General File with committee amendments. (AM1691, Legislative Journal page 554.) [LB1012]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Harr, you're recognized to open on LB1012. [LB1012]

SENATOR HARR: Thank you, Mr. President. And thank you, again, to the Speaker for putting this on consent. LB1012 provides for limited license for self-storage facility operators to be able to offer their customers tenant insurance coverage for the loss of or damage to their personal property contained in their storage space. The insurance will be offered on a month-to-month or periodic base. This is very similar to a provision in Nebraska law that allows rental car companies to offer insurance at the time you rent a car from them. Under LB1012, when a customer comes in to a self-storage facility to rent a storage unit, the self-storage facility can offer the customer tenant insurance. It will be convenient as an option for consumers if they choose to take advantage of it. They cannot be required to buy the insurance in order to rent a storage unit. It will be a limited policy with disclosure requirements built into this law. Twenty-

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seven states now authorize such limited self-storage tenant insurance. There is an amendment that was brought after work with the Department of Insurance and with independent or the insurance agents organizations. The Banking and Insurance Committee voted to advance LB1012 with AM1691. I'd like to thank Senator Lindstrom as well for his help on this bill. [LB1012]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Lindstrom, you're recognized to open on the committee amendment, AM1691. [LB1012]

SENATOR LINDSTROM: Thank you, Mr. President. The committee amendments would become the bill. They have been worked out with the Department of Insurance. The committee amendments would strike provisions which would exempt self-service storage operators from the requirements of Section 44-4053 and 44-4054 of the Insurance Producers Licensing Act regarding applications for an insurance of licenses. Those requirements need to stay in place for this new type of limited license. The committee amendments would provide the limited license shall provide the Director of Insurance with an updated list of facilities and employees quarterly rather than annually. The committee amendments would provide that required written disclosures to be provided by limited licensees to an occupant must include the identity of any third-party administrator or supervising entity authorized to act on behalf of the insurer. The required disclosure and insurance offered by a limited licensee may duplicate an occupant's homeowner's policy but must be prominently displayed in at least 12-point bold type. Disclosures must include statements that insurance offered by limited licensees is not automobile limited coverage, and that the limited license...licensee's employee, if not a licensed producer, must not evaluate or interpret the technical terms, benefits, or conditions of insurance offered by limited licensees and may not evaluate or provide advice concerning an occupant's existing insurance coverage. Thank you for indulging me on that amendment, and I'd urge the body to support AM1691. Thank you. [LB1012]

PRESIDENT FOLEY: Thank you, Senator Lindstrom. Is there any discussion on the bill or the committee amendment? Seeing none, Senator Lindstrom waives closing on the committee amendment. The question before the body is the adoption of AM1691. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB1012]

ASSISTANT CLERK: 31 ayes, 0 nays on the adoption of committee amendments. [LB1012]

PRESIDENT FOLEY: Committee amendments are adopted. Any further discussion on the bill as amended? Seeing none, Senator Harr, you're recognized to close on the advance of the bill. He waives closing. The question before the body is the advance of LB1012 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please. [LB1012]

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ASSISTANT CLERK: 31 ayes, 0 nays on the advancement of the bill. [LB1012]

PRESIDENT FOLEY: LB1012 advances. Next bill, please. [LB1012]

ASSISTANT CLERK: Mr. President, LB701, introduced by Senator Kolterman. (Read title.) The bill was introduced on January 3, referred to the Health and Human Services Committee, placed on General File with committee amendments. (AM1880, Legislative Journal page 636.) [LB701]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Kolterman, you're recognized to open on LB701. [LB701]

SENATOR KOLTERMAN: Once again, good evening, Mr. President and fellow colleagues. I'm here to ask you for support of LB701 and AM1880. Thank you, Mr. Speaker, for adding it to the consent calendar agenda. LB701 amends the Uniform Credentialing Act to establish a physician-patient relationship through telehealth without the requirements for an initial face-to-face visit for physicians and physician assistants. This legislation is needed to clarify and update telehealth statutes to support existing practice. The Nebraska Telehealth Act was originally passed in 1999. At the time, the Legislature made the following findings. Access to healthcare facilities and healthcare practitioners is critically important to the citizens of Nebraska. Access to a continuum of healthcare services is restricted in some medically underserved areas of Nebraska. The use of telecommunications technology to deliver healthcare services can reduce healthcare costs, improve healthcare quality, improve access to healthcare, and enhance the economic health of communities in medically underserved areas of Nebraska. And the full potential of delivering healthcare services through telehealth cannot be realized without the assurance of payment for such services and the resolution of existing legal and policy barriers to such payment. Currently, physicians are using telehealth for initial visits without first seeing their patients face-to-face. However, the statutes are silent on telehealth practices outside the Nebraska Telehealth Act, which technically only applies to Medicaid healthcare services. In addition, regulations relating to physician practices are unclear as to whether or not a physician would be engaging in unprofessional conduct by seeing a patient via telehealth for the initial contact. This legislation will provide certainty and stability to telehealth providers by clarifying the current telehealth practices are...by clarifying that current telehealth practices are supported by Nebraska law and regulations. It makes it clear that a physician could provide treatment or consultation recommendations, including issuing prescriptions through telehealth, without the need of the face-to-face contact. Nothing in this bill should be interpreted to supersede any existing statutory requirement that a physician or physician assistant may physically present to perform procedures or prescribe a drug. I've discussed this legislation with leaders from several statewide healthcare organizations. Several of them have sent letters of support that were submitted for the record.

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Some asked that I expand the intent of the legislation to include other scopes of practice. I respectfully declined such requests, not because I oppose the expanded use of telemedicine but because the intent of this bill is to provide certainty and stability to telehealth providers by clarifying that current telehealth practices are supported by Nebraska law and regulations. We can take a look at expanding telehealth during an interim session. LB701 is noncontroversial. I'm aware of no opposition. The issue of telehealth services is not a controversial subject. In addition to myself, there were four individuals providing testimony in support of LB701. The representatives were from a telehealth service provider, Teladoc; the Nebraska Hospital Association; the Nebraska Medical Association; the Nebraska Association of Insurance and Financial Advisors. No one testified against LB701. The bill is short, has no General Fund impact, and was reported to General File without dissenting votes. While Health and Human Services did not take a position on the bill, they reviewed it and asked that I make one change. The change is "shall" to "may" on page 4, line 16. The HHS Public Health Division believes that the more restrict...that the more restrict language could be interpreted as an obstacle for the Board of Medicine and Surgery. The committee amendment, AM1880, strikes "shall" on page 4, line 16, and replaces it with a "may." Thank you, colleagues, and I urge you to vote green on LB701 and AM1880. [LB701]

PRESIDENT FOLEY: Thank you, Senator Kolterman. As the Clerk indicated, there are amendments from the Health Committee. Senator Riepe, you're recognized to open on AM1880. [LB701]

SENATOR RIEPE: Thank you, Mr. President, colleagues, and Nebraskans. As Senator Kolterman noted, AM1880 changes "shall" to "may" to give the Health and Human Services Department the flexibility to adopt and promulgate rules and regulations as needed. And I support him wholeheartedly in asking for a green vote for AM1880 and LB701. Thank you. [LB701]

PRESIDENT FOLEY: Thank you, Senator Riepe. Is there any discussion of LB701 or the pending committee amendment? Seeing none, Senator Riepe, you're recognized to close on the committee amendment. He waives closing. The question before the body is the adoption of AM1880, committee amendment. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please. [LB701]

ASSISTANT CLERK: 31 ayes, 0 nays on the adoption of committee amendments. [LB701]

PRESIDENT FOLEY: Committee amendments are adopted. Any further discussion on the bill as amended? Senator Kolterman, you're recognized to close. He waiving closing. The question

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before the body is the advance of LB701 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please. [LB701]

ASSISTANT CLERK: 31 ayes, 0 nays on the advancement of the bill. [LB701]

PRESIDENT FOLEY: LB701 advances. Next bill, please. [LB701]

ASSISTANT CLERK: LB742, introduced by Senator Lindstrom. (Read title.) The bill was introduced on January 3 of this year; referred to the Banking, Commerce and Insurance Committee; placed on General File with no committee amendments. [LB742]

PRESIDENT FOLEY: Senator Lindstrom, you're recognized to open on LB742. [LB742]

SENATOR LINDSTROM: Thank you, Mr. President. LB742 would make one clarification to our Nebraska Franchise Practice Act. LB742 would fix an unintended result by providing that the authority to reform and enforce noncompete agreements applies to any noncompete agreement entered into by a franchisor headquartered in Nebraska without regard to where the franchisee is located, unless otherwise agreed to by the parties. Thus, with enactment of LB742, the reformation and enforcement authority will apply the same in both in-state and out-of-state franchisees of a franchisor headquartered in Nebraska. I'd urge the investment of LB742. Thank you, Mr. President. [LB742]

PRESIDENT FOLEY: Thank you, Senator Lindstrom. Is there any discussion on the bill? Senator Hughes. [LB742]

SENATOR HUGHES: Thank you, Mr. President. I just have a short question for Senator Lindstrom. Can you give me the name of a small brown rodent with a short tail that lives in towns in prairie? [LB742]

PRESIDENT FOLEY: Senator Lindstrom, would you yield, please? [LB742]

SENATOR LINDSTROM: Yes, I will yield. I believe you're speaking of a prairie dog? [LB742]

SENATOR HUGHES: That's correct. Thank you. [LB742]

SENATOR LINDSTROM: Okay. [LB742]

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PRESIDENT FOLEY: Seeing no further discussion, Senator Lindstrom is recognized to close. He waives closing. The question before the body is the advance of LB742 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please. [LB742]

ASSISTANT CLERK: 32 ayes, 0 nays on the advancement of the bill. [LB742]

PRESIDENT FOLEY: LB742 advances. Items for the record, please. [LB742]

ASSISTANT CLERK: LR380, LR381, LR382, all offered by Senator Hilgers, are interim study resolutions, will be referred to Reference. Amendments to be printed: Senator Ebke to LB841, Senator Bolz to LB793. A name add: Senator McDonnell to LB1040. (Legislative Journal pages 1171-1177.) [LR380 LR381 LR382 LB841 LB793 LB1040]

And a priority motion: Senator Hansen would move to adjourn until Tuesday morning, March 27, 2018, at 9:00 a.m.

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